

***United States Court of Appeals
for the Second Circuit***



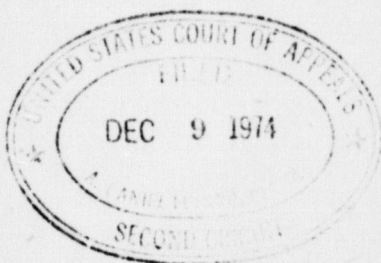
EXHIBITS

74-2178

In The
United States Court of Appeals
for the Second Circuit
COLONIE HILL LTD.,
Petitioner

v.
NATIONAL LABOR RELATIONS BOARD,
Respondent

EXHIBIT VOLUME



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OFFICIAL REPORT OF PROCEEDINGS
BEFORE THE
National Labor Relations Board

DOCKET NO. 29-CA-3457
29-CA-3462

IN THE MATTER OF:

COLONIE HILL LTD.

PLACE: Brooklyn, New York

DATE: December 17, 1973

PAGES: 1 - 25

C. S. A. REPORTING CORPORATION
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300 Seventh Street, S.W. Washington, D. C. 20024
393-2320

ET (180 PAGES)

Confidential - Not to be released 962-551

BEFORE THE NATIONAL LABOR RELATIONS BOARD

Twenty-Ninth Region

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In the Matter of:	:	
COLONIE HILL LTD.	:	
-and-	:	
MAURO SQUICCIARINI,	:	Case Nos.
-and-	:	29-CA-3457
	:	29-CA-3462
JAMES STAATS,	:	
-and-	:	
LOCAL 100 SERVICE EMPLOYEES INTERNATIONAL :	:	
UNION, AFL-CIO,	:	
Party in Interest	:	

----- x

16 Court Street
Brooklyn, New York
Monday, December 17, 1973

The above-entitled matter came on for hearing,
pursuant to notice, at 1:00 o'clock P. M.

BEFORE:

GEORGE J. BOTT
ADMINISTRATIVE LAW JUDGE

APPEARANCES:

STEVEN FISH, Esq.	Brooklyn, New York, appearing on behalf of the Counsel for the General Counsel
FRANCIS P. DONELAN, Esq.	Of Counsel, Hynes & Diamond, Esqs., 25 Broadway, New York, New York, appearing on behalf of Respondent Colonie Hill.

I N D E XWITNESSDIRECT CROSS REDIRECT RECROSS

Mauro Squicciarini

11

EXHIBITS:FOR IDENTIFICATIONIN EVIDENCE

General Counsel's:

1-A through 1-K

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2, 3, 4

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5, 6, 7

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- - -

P R O C E E D I N G S

JUDGE BOTT: The hearing will be in order.

This is a formal hearing before the National Labor Relations Board in the matter of Colonie Hill Ltd., that is abbreviated L-t-d. and Mauro Squicciarini and James Staats and Local 100 Service Employees International Union, AFL-CIO, Party of Interest.

Case No. 29-CA-3457 and Case No. 29-CA-3462.

Will Counsel or other Representatives please state their appearances for the record.

For General Counsel?

MR. FISH: Steven B. Fish for the General Counsel.

MR. DONELAN: Francis P. Donelan, Attorney for Colonie Hill Ltd., address 25 Broadway, New York, New York.

JUDGE BOTT: The Administrative Law Judge is George J. Bott, B-o-t-t.

In an off the record discussion. Mr. Donelan indicated that his principal witness and/or I guess principal, Mr. Peter Napolitano is ill and he would like to have him here while this case goes on.

He would like perhaps a half a day postponement.

We are getting started late and we have a weather problem and we will probably have a weather problem the rest of the week.

We have holidays coming up and transportation

1 is just impossible although I am inclined to give you
2 some kind of consideration, Mr. Donelan, the fact that
3 someone has a cold or grippe is not good reason for not
4 having a hearing and the fact that he wants to listen
5 to the testimony is still not a very good legal reason
6 although I understand why as a Trial Lawyer you would
7 like to have him here.

8 So in line with our off the record discussion we
9 are going to take some evidence and try to work out some
10 stipulation.

11 The General Counsel has some brief witnesses on
12 labor organizations, if it is on labor organizations I
13 don't see why you can't stipulate that, I have heard of
14 the Service Employees Union, I have known about it for
15 35 years, if you want me to cooperate with you, you have
16 to start cooperating with the Government and me and that
17 is clearly a labor organization.

18 Now we will take some short testimony on some thing,
19 I would like to get into the merits of the case. I would
20 like to get a general idea of it.

21 Mr. Fish, do you have a witness that can start
22 off and give me a picture?

23 MR. FISH: Yes, your Honor. But he is still one
24 of the 8 (A) (3s), he is one of the discriminatees.

25 JUDGE BOTT: We may be able to take his direct

1 testimony and break at that time.

2 I don't want to make any positive ground rules,
3 I will play it by ear, I want to get the case started.

Do you have any preliminary matters?

5 MR. FISH: I would like to introduce the formal
6 papers.

7 JUDGE BOTT: That's a good idea.

8 MR. FISH: At this time, your Honor, General
9 Counsel moves to introduce the formal papers which have
10 been shown to Counsel for Respondent and they are 1-A
11 through 1-K, and I introduce them at this time.

12 JUDGE BOTT: Let me look at them, I haven't seen
13 anything but the Court Docket.

14 (Counsel complies.)

15 JUDGE BOTT: Okay, formal documents 1-A through 1-K
16 are admitted into evidence.

17 (The documents above-referred to
18 were marked General Counsel's
19 Exhibits 1-A through 1-K and
20 received in evidence.)

21 MR. DONEGAN: Your Honor, I don't know if a motion
22 is in at this time, those were the claim of improper
23 pay reduction of Mauro Squicciarini.

24 The basis is that no charge was given to the Re-
25 spondent with respect to any improper pay reduction for
Mr. Squicciarini.

1 JUDGE BOTT: Do you have anything to say?

2 MR. FISH: Just that the pay reduction can be
3 clearly encompassed with these and other acts shown in
4 the charges and there is clearly an allegation of the
5 charges and Mr. Squicciarini's pay reduction was accomplished.
6

7 JUDGE BOTT: You say there is an allegation about
8 a pay reduction of Staats and Eckert and it is not
9 specifically mentioned and it was done at that time?

10 MR. FISH: Yes.

11 JUDGE BOTT: It relates to the allegations in
12 the charges and your motion is denied.

13 MR. FISH: I have no other preliminary motions,
14 your Honor. I would request --

15 JUDGE BOTT: Do you have any stipulations?

16 MR. FISH: I think that there is one or two that
17 we can get.

18 I believe Mr. Donelan indicated that he would
19 stipulate to the labor organization's status of Local 100.

20 MR. DONELAN: That is correct.

21 JUDGE BOTT: There is a question of commerce in
22 this case?

23 MR. FISH: No, your Honor.

24 The second stipulation that Mr. Donelan said he
25 would stipulate to the fact of General Counsel's complaint.
Paragraph 4-B which he had denied information, knowledge

1 and belief in his answer he has indicated that he will
2 stipulate to that.

3 JUDGE BOTT: Is that correct, Mr. Donelan?

4 MR. DONELAN: Correct.

5 JUDGE BOTT: That is noted and approved.

6 You will stipulate to the legal conclusion that
7 it is in commerce?

8 MR. DONELAN: Yes.

9 MR. FISH: There is one other stipulation that I
10 would like to obtain.

11 JUDGE BOTT: Off the record.

12 (Discussion off the record.)

13 JUDGE BOTT: There has been a little bit of con-
14 fusion about a labor organization. Mr. Donelan has agreed
15 that Local 100 is, he says he has no knowledge about the
16 other two labor organizations, Operating Engineers and
17 the United Association, Plumbers Local of the United
18 Association. I believe there is a word missing in the
19 complaint in your title.

20 He had no information with respect to this and
21 that is the reason why he denied it.

22 These organizations have been before the National
23 Labor Relations Board and their appearances have appeared
24 in cases which went to the Circuit Court of Appeals for
25 this circuit and many other circuits.

1 If you still require General Counsel to be put
2 to his proof I will have him put something on it, it is
3 up to you?

4 MR. DONELAN: Based on what your Honor has ad-
5 vised me I have no objection to stipulating as to them
6 being labor organizations.

7 JUDGE BOTT: You have no dispute?

8 MR. DONELAN: To me it was a legal conclusion
9 which I did not have sufficient facts on.

10 JUDGE BOTT: You will find I sort of foresee that
11 it will appear from the testimony that the witnesses were
12 doing something with respect to an organization.

13 Now you're working on something off the record --

14 MR. FISH: So am I correct that the stipulation is
15 received that these labor organizations are received?

16 JUDGE BOTT: That is correct. They are labor organi-
17 zations within the meaning of the Act.

18 MR. FISH: I would like to excuse these witnesses
19 because that's what they were subpoenaed for.

20 (Certain witnesses were excused.)

21 JUDGE BOTT: Call your witness, Mr. Fish.

22 MR. FISH: At this time, your Honor, I would like
23 to introduce some documents which I have previously shown
24 to Mr. Donelan which he indicates no objection thereto.
25 And I will read them off.

1 JUDGE BOTT: Let me make a list, please identify
2 them for me also.

3 MR. FISH: As General Counsel's Exhibit 2, it
4 is a copy of a petition filed in Case No. 29-RC-2131,
5 dated -- the date of filing was November the 30th, 1972.

6 This is a petition filed by Local 775 of the
7 Plumbers Union to represent certain employees of Colonia
8 Hill.

9 JUDGE BOTT: These are going in by agreement,
10 correct?

11 MR. DONELAN: Correct, your Honor.

12 (The document above-referred to
13 was marked General Counsel's
14 Exhibit No. 2 and received in
evidence.)

15 MR. FISH: General Counsel's 3 is the NLRB letter
16 dated November 30th, 1972 which was sent to Colonia Hill
17 in the case just introduced 29-RC-2131.

18 (The document above-referred to
19 was marked General Counsel's
20 Exhibit No. 3 and received in
evidence.)

21 MR. FISH: General Counsel's 4 is a letter of
22 Samuel L. Canard (Phonetic) approving the withdrawal of
23 the position in Case No. 29-RC-2131 dated December 6, 1972.

24 (The document above-referred to
25 was marked General Counsel's
Exhibit No. 4 and received in
evidence.)

1 MR. FISH: General Counsel's 5 is a motion to inter-
2 vene filed by Local 30 of the International Union of
3 Operating Engineers dated December 5, 1972.

4 (The document above-referred to
5 was marked General Counsel's
6 Exhibit No. 5 and received in
7 evidence.)

8 MR. FISH: General Counsel's 6 is a copy of a tally
9 of ballots dated December 14, 1972 in Case No. 29-RM-353,
10 involving Colonie Hill and Local 100 of the Service Em-
11 ployees International Union.

12 (The document above-referred to
13 was marked General Counsel's
14 Exhibit No. 6 and received in
15 evidence.)

16 MR. FISH: General Counsel's 7 is a certification
17 of representation dated December 26, 1972 certifying
18 Local 100 as the collective bargaining representative for
19 certain employees of Colonie Hill.

20 (The document above-referred to
21 was marked General Counsel's
22 Exhibit No. 7 and received in
23 evidence.)

24 JUDGE BOTT: Are those all your documents?

25 MR. FISH: Yes.

JUDGE BOTT: So the record is perfectly clear
General Counsel's 2, 3, 4, 5, 6, and 7 is admitted into
evidence by agreement of the parties.

1 That certification was 1972 did you say?

2 MR. FISH: December of '72, yes, sir.

3 JUDGE BOTT: And the allegations of your complaint,
4 the principal allegation which talks about events that
5 took place in 1973 was after the certification?

6 MR. FISH: That's right, after the certification.

7 JUDGE BOTT: All right, you may proceed.

8 MR. FISH: I call Mauro Squicciarini to the stand,
9 please.

10 JUDGE BOTT: Do you solemnly swear that the testi-
11 mony you will give in this proceeding will be the truth,
12 the whole truth and nothing but the truth so help you God?

13 MR. SQUICCIARINI: I do.

14 Whereupon,

15 MAURO SQUICCIARINI

16 was called as a witness by and on behalf of the General
17 Counsel and, having been first duly sworn, was examined
18 and testified as follows:

19 DIRECT EXAMINATION

20 Q (By Mr. Fish) Mr. Squicciarini, did there come
21 a time -- would you give your full name and address for
22 the record?

23 A Mauro Squicciarini. I live at 3 Gaynor Avenue,
24 Nesconset, Long Island, New York 11767.

25 Q Mr. Squicciarini, did there come a time when you

1 were employed by Colonia Hill?

2 A Yes, I was.

3 Q For what period of time were you so employed?

4 JUDGE BOTT: Off the record.

5 (Discussion off the record.)

6 THE WITNESS: Can you repeat that?

7 Q (By Mr. Fish) For what period of time were you em-
8 ployed by Colonia Hill?

9 A I was first employed March 13, 1972.

10 Q And what kind of work did you do for them?

11 A Plumbing and maintenance work.

12 Q Mr. Squicciarini, did there come a time when you be-
13 came involved with Local 30 of the Operating Engineers?

14 A Yes, I did.

15 Q Will you tell us how that came about?

16 A I had myself with the other maintenance and boiler-
17 room employees requested from Bob Lockhart to bring a
18 representative down to talk to us.

19 We were interested in signing up with Local 30.

20 Q Can you tell us approximately when this was?

21 A Probably the beginning of November 1972.

22 Q And you say that the man from Local 30 came down?

23 A Yes, he did. Mr. Joe Lurger.

24 Q And what happened?

25 A He spoke to us and told us about the Union and he

1 gave us some cards to sign for employees.

2 MR. FISH: I would like this document marked as
3 General Counsel's Exhibit 8 for identification, please.

4 (The document above-referred to
5 was marked General Counsel's
6 Exhibit No. 8 for identification.)

7 Q (By Mr. Fish) Mr. Squicciarini, I show you Ex-
8 hibit 8 and will you tell us what that document is?

9 A This is an agreement to sign up with Local 30.

10 Q Is this the card that you signed?

11 A Yes.

12 Q Is that the correct date on it?

13 A Yes.

14 MR. FISH: I move that it be received into evidence.

15 MR. DONEGAN: No objection.

16 JUDGE BOTT: General Counsel's 8 is admitted into
17 evidence.

18 (The document above-referred to
19 heretofore marked General
20 Counsel's Exhibit No. 8, was
received in evidence.)

21 Q (By Mr. Fish) Now at the time you signed this
22 card, Mr. Squicciarini, you were aware that there was
23 currently pending an election to be held at Colton Hill
24 involving Local 100?

25 A Yes.

1 Q Did you have any conversations with any officials
2 from the Company with reference to Unions?

3 A Yes, I had spoke to --

4 Q Who did you speak to?

5 A Joe Trockel.

6 Q Is his first name Clement.

7 A Yes.

8 Q When did you speak to Mr. Trockel in relation to
9 when you signed the card?

10 JUDGE BOTT: What is the man's first name, Clement?

11 MR. FISH: Clement J. Trockel.

12 THE WITNESS: (Continuing) About the beginning of
13 November he approached me in a corridor of the Colonie
14 Hill Ballroom and said that I should sign up with Local 100,
15 otherwise I would be fired.

16 Q (By Mr. Fish) What did you say?

17 A I told him that remains to be seen and that Local
18 100 is not a Union to represent the Maintenance Department,
19 they only represent the waiters and waitresses and they
20 cannot represent the maintenance or boiler room employees.

21 I said Local 775 or Local 30 would be a proper
22 Union to represent us.

23 He said if you don't sign up with Local 100 you
24 will be fired.

25 Q And how many conversations did you have with

1 Mr. Trockel about the subject?

2 A About three conversations prior to this he told me
3 if I didn't join Local 100 I would be fired.

4 JUDGE BOTT: Are you saying that he said substantially
5 the same thing in each conversation?

6 THE WITNESS: He told other employees the same thing.

7 Q (By Mr. Fish) Were these conversations before or
8 after you signed the cards?

9 A This was before.

10 Q Did you have any after?

11 A Yes, after.

12 Q And what were the substance of the conversations?

13 A The same thing.

14 Q Did you have any conversations with any other
15 Company officials?

16 A Yes.

17 Q Before the election?

18 A Yes, before the election went into effect I was told
19 to see Mr. Walter Conlon (Phonetic).

20 Q And where did you speak to Mr. Conlon?

21 A In Mr. Conlon's office.

22 Q And what was the conversation with him?

23 A He told me to get out of Local 30, to withdraw my
24 card from Local 30, he told me he was advising me to get
25 out of Local 30 to join Local 100.

1 He did not want too many Unions in the Company.
2 He said you are a trusted employee and if I signed up
3 with Local 100, Local 100 would take care of me and I
4 also told him that Local 100 cannot represent the Main-
5 tenance Department or the boiler room employees, but
6 Local 30 or Local 775 was able to do so; regardless you
7 got to get out of Local 30, you have to withdraw.

8 Q Did you withdraw from Local 30?

9 A Yes, I did.

10 I called him -- Mr. Lunger and he wasn't there so
11 I spoke to a Mr. Tracy and I told him to withdraw my card.

12 JUDGE BOTT: This is all before the election?

13 THE WITNESS: Yes.

14 Q (By Mr. Fish) Now, after the election Mr.
15 Squicciarini, was there a time that you were laid off for
16 some period of time?

17 A Yes, on January of 1973 I was laid off.

18 Q For how long?

19 A For approximately three weeks.

20 Q And how did it come about that you came back to work?

21 A A heating coil and an air conditioning coil had
22 broken down. We had about 30 leaks and the people they
23 kept on which was two people to maintain the Maintenance
24 Department and the boiler room, one for each, they weren't
25 able to repair the equipment and Mr. Art Dickenson, my

1 superintendent, he was a building superintendent and he
2 called me and asked me if I would do the job on a contract
3 basis and I asked him.

4 I says about coming back to work for Colonie Mill.

5 He said the Company is still slow and they're not
6 making much money and he said to come back on a contract
7 basis and I did and it took me 35 hours to do the job.

8 I turned my bill in to Mr. Dickenson and it went
9 to George Russo from there.

10 Q Then what happened?

11 A I called up three or four days later because I
12 didn't hear anything and I was told to see Mr. Russo,
13 when I saw Mr. Russo he said this bill was outrageous,
14 he said where do I get off turning in a bill for \$642.59
15 when all I was getting was \$275 a week.

16 At the time he asked me how long I worked and I
17 was told to charge him contractor's prices and it was
18 approved by Mr. Dickenson and he told me that I would
19 have to modify the bill.

20 I told him just give me the cost of my materials
21 and forget about the labor costs.

22 I am not looking for charity and when I am looking
23 for charity I will tell you and I said how about giving
24 me my job back and he said you're not threatening us
25 to take you back and I said I want to prove that I was

1 able to do my work and he says I agree and we kept the
2 wrong people and he says I will tell you what Mr. Delillo
3 is the owner of Colonie Hill and he was coming in for a
4 meeting and he would talk to Mr. Dillillo about my
5 situation and also he says that a reduction in the bill
6 wouldbe in my favor.

7 He kept his word. He spoke to Mr. Delillo and
8 I was called by Peter Napolitano a week later asking me
9 to come to work for Colonie Hill.

10 Q At what salary?

11 A He offered me \$300 a week.

12 Q Was anything said about the position you would hold?

13 A Yes, that I would take over Artie Dickenson's job
14 that he was retiring.

15 Q What was that position?

16 A That was buildings and grounds superintendent.

17 Q And when did you report back to work?

18 A I came back to work February 12th.

19 Q Now after you returned to work, Mr. Squicciarini,
20 did you have further conversations about the Union with
21 any Company officials?

22 A I was approached again by Joe Trockel.

23 Q When was this, how long after you returned to work?

24 A Approximately about a week or week and a half.

25 Q And what was the conversation?

1 A He told me what do I want to do, join the Union
2 or what?

3 I said as far as I understand I am in a supervisory
4 category and I don't have to join the Union.

5 Q And what did he say to that?

6 A He said there was no such thing on record, had
7 you had me there to witness the thing it would be in
8 your favor and he said he would have to check on it and
9 he said the thing.

10 Q Were you subsequently notified with respect to
11 Mr. Trockel's checking as to whether you were a super-
12 visor or not?

13 A No, he never got back to me but I was approached
14 about maybe two weeks later after that.

15 Q By who?

16 A By Skip Neilson.

17 He told me that he was going to put Bob Lockhart
18 in charge of the maintenance and boiler room and he
19 said that he was going to put Bob Lockhart on the job
20 and he said he just felt Bob Lockhart should have the job.

21 Q What happened then?

22 A I said I would go see Peter, Peter hired me back.

23 JUDGE BOTT: Peter who?

24 THE WITNESS: Peter Napolitano.

25 Q (By Mr. Fish) Did you see him?

1 A Yes, I did.

2 Q What was the conversation?

3 A He said Skip don't do that he hired me for that
4 job.

5 Q Then what happened?

6 A Two weeks after that Peter Napolitano came to my
7 maintenance shop.

8 He said he was sorry he spoke to his uncle Mr.
9 Delillo, that Mr. Delillo had given Skip Neilson complete
10 charge of who he wanted to appoint for a maintenance
11 supervisor.

12 Peter then said he was sorry but to just wait
13 and see what happens.

14 Q Now did there come a time thereafter that you were
15 informed about a pay cut of some of the employees in the
16 department?

17 A Yes, then after I had gone to see Skip Neilson to
18 iron out any differences and I told him that I would
19 work under Bob Lockhart and I agreed to that effect and
20 he told me that Werner Eckert and Jim Staats were getting
21 their pay cut.

22 He says that my pay, he didn't get no information
23 about my pay.

24 Q Was any reason given to you why their pay was cut?

25 A No.

1 Q Did you have any discussion with anyone else about
2 the pay cut?

3 A After that I went to see Joe Trockel who was
4 personnel manager of Colonie Hill and I said is it true
5 that Werner Eckert and Staats had their pay reduced and
6 he said it was because they were against Local 100.

7 Q And what happened?

8 MR. DONELAN: I object to all of this as hearsay
9 testimony.

10 JUDGE BOTT: Who are you talking about, who said
11 this?

12 THE WITNESS: Joe Trockel.

13 JUDGE BOTT: The objection is overruled. Joe
14 Trockel is a supervisor and agent.

15 THE WITNESS: He says that my pay can't be cut,
16 they can't do it.

17 Q (By Mr. Fish) Now, thereafter was your pay sub-
18 sequently cut?

19 A Yes, it was.

20 Q Approximately when?

21 A On May 6th was my first pay cut.

22 Q And who informed you about that?

23 A Bob Lockhart.

24 Q And what did he tell you?

25 A He told me that my pay was being cut.

1 Q Did he say why?

2 A No.

3 Q Did you have any discussions about that subject
4 with anybody else, any Company official?

5 A Yes, I did.

6 I had gone to see Walter Conlon, I had gone and
7 told him that my pay was cut from 275 to 164 and I says --
8 he was shocked to hear it and it seems impossible, he said
9 and I told him Local 100 was supposed to take care of me
10 and I was supposed to be a trusted employee and I would
11 be taken care of and this is what happens.

12 Q And what did he say?

13 A He said he would find out about it and get back to
14 me.

15 Q Did he ever get back to you?

16 A No.

17 I had gone to see him.

18 Q Now after this pay cut was there ever discussion
19 about the pay cut at any Union meeting you attended?

20 A Yes, I did.

21 I spoke to a Mr. O'Keefe.

22 Q When was this approximately?

23 A The end of May.

24 Q What was the discussion?

25 A He said that he received a letter from Mr. Delillo

1 stating that he had no use for maintenance mechanics or
2 utility men, light bulb changers, this is the reason
3 for the cutback and he had got back to me.

4 He says the only way you get back at the Company
5 and you refuse to do mechanics work.

6 You don't get paid for doing it.

7 Q And did you subsequent to this meeting, Mr.
8 Squicciarini, inform any official of the Company?

9 A Yes, I went to see Skip Neilson and Bob Lockhart
10 and told them what he said and he said that I would be
11 fired on the spot if I refused to do any mechanics work
12 that I would be fired on the spot.

13 Q And this was in late May, this conversation you
14 had with these Company officials?

15 A Yes, it was.

16 Q And when were you terminated?

17 A I was terminated June 24th.

18 Q And during the period between the end of May and
19 June 24th were you out of work for any period of time?

20 A Yes, I went on my two weeks active duty, I am a
21 member of the Naval Reserves and I went from June 3rd to
22 June 20th.

23 Q You returned on June 20th?

24 A I returned to work on June 20th and put in one
25 week.

1 Q What happened at that time?

2 A I did my normal work.

3 Q This is the 24th of June?

4 A On the 24th of June I was approached by Bob Lockhart
5 and Jim Staats in his office and he handed me an envelope
6 and he told me the Company did not need me any more.

7 They did not like my work.

8 Q Did you speak to any other Company officials about
9 it?

10 A I spoke to Skip Neilson June 25th. I approached
11 him on the golf course in Colonie Hill and I asked if
12 there was a reason for my discharge and he said the
13 Company didn't like my work.

14 JUDGE BOTT: Who was that that you were talking to?

15 THE WITNESS: Skip Neilson.

16 MR. FISH: I have no further questions.

17 JUDGE BOTT: Well I gave Mr. Donelan some assur-
18 ances which were not too specific but this is probably
19 a point where your request becomes pertinent.

20 Would you like to have your client here while you
21 are cross-examining?

22 MR. DONELAN: I would, and your Honor, I have
23 taken verbatim as quickly as I could his testimony and
24 I would like to discuss it with my client.

25 JUDGE BOTT: I think that it is reasonable, let's

1 see if I can make a practical suggestion.

2 We will postpone cross-examination of this gentle-
3 man until tomorrow morning.

4 Do you have any other witnesses?

5 MR. FISH: These two and both will be short.

6 JUDGE BOTT: Off the record.

7 (Discussion off the record.)

8 JUDGE BOTT: In view of the situation as I said,
9 Counsel's request is reasonable to consult with his client
10 about this examination which has been very detailed and
11 so we will postpone any cross-examination until tomorrow
12 in view of the fact that the other witnesses would have
13 to come back tomorrow anyway.

14 I think we should then adjourn until tomorrow
15 morning.

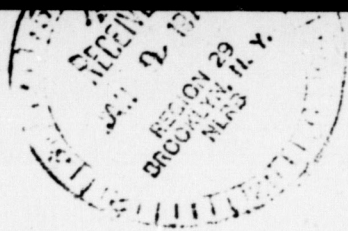
16 I would like to start early, I know you may all
17 have problems here but can you make it at 9:00 o'clock or
18 9:30?

19 Off the record.

20 (Discussion off the record.)

21 JUDGE BOTT: Counsel agree that they will be here
22 at 9:30 A.M. tomorrow morning, Tuesday the 18th.

23 (Whereupon, the hearing was adjourned to
24 December 18, 1973 at 9:30 o'clock A. M.)
25



OFFICIAL REPORT OF PROCEEDINGS

BEFORE THE

National Labor Relations Board

DOCKET NO. 29-CA-3457
29-CA-3402

IN THE MATTER OF:

HEARING CLOSED

COLONIE HILL LTD.

PLACE: Brooklyn, New York

DATE: December 18, 1973

PAGES 26-180.

C. S. A. REPORTING CORPORATION
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393-2320

BEFORE THE NATIONAL LABOR RELATIONS BOARD

29th REGION

-----x

In the Matter of:	:	
	:	
COLONIE HILL LTD.	:	Case Nos.
and	:	29-CA-3457
MAURO SQUICCIARINI	:	29-CA-3402
and	:	
JAMES STAATS	:	
and	:	
LOCAL 100 SERVICE EMPLOYEES	:	
INTERNATIONAL UNION, AFL-CIO,	:	
Party In Interest	:	

-----x

16 Court Street,
Brooklyn, New York
Tuesday, December 18, 1973

The above-entitled matter came on for further hearing
pursuant to adjournment, at 9:45 o'clock a.m.

BEFORE:

GEORGE J. BOTT, Esq., Administrative Law Judge

APPEARANCES:

STEVEN B. FISH, Esq. Brooklyn, New York,
appearing on behalf of
the Counsel for the
General Counsel.

FRANCIS P. DONELAN, Esq. Hynes & Diamond,
25 Broadway,
New York, New York,
appearing on behalf of
the Respondent.

I N D E X

	<u>WITNESS:</u>	<u>DIRECT</u>	<u>CROSS</u>	<u>REDIRECT</u>	<u>RECROSS</u>
1					
2					
3	Mauro Squicciarini		28	38	
4	James Staats	43	49		
5	Werner Eckart	54	56		
6	Peter Napolitano	57			
	(Voir Dire, P.75)				
7	(Direct, resumed-	86	91		
8	Joseph Anthony Cabanas	121	127	149	152
9	Walter Conlon	154	164		
10	Mauro Squicciarini	171			
11					
12	<u>EXHIBITS:</u>	<u>FOR IDENTIFICATION</u>		<u>IN EVIDENCE</u>	
13	General Counsel's :				
14	9		41		41
15	10		44		44
16	Respondent's:				
17	1		59		59
18	2		74		85
19					
20					
21					
22					
23					
24					
25					

P R O C E E D I N G S

JUDGE BOTT: The hearing will be in order.

This witness was previously sworn and you are still under oath, and this is cross-examination.

Whereupon,

MAURO SQUICCIARINI

having been previously sworn, was examined and testified as follows:

CROSS EXAMINATION

Q (By Mr. Donelan) Mr. Squicciarini, after you signed the card with Local 30 Operating Engineers, did you become a member of that union?

A No, I believe not.

Q Did you ever pay any dues to that union?

A No.

Q Do you have any connection with Local 775 of the Plumbers Union?

A No.

Q Were you ever a member of that union?

A No.

Q Were you a member of either of those unions at the time when you came to work for Colonie Hill?

A No.

Q At the time you solicited employment at Colonie Hill did they ever ask you whether or not you had any membership

1 affiliation at that time?

2 A No.

3 Q I presume you were never denied employment by them
4 because of any union membership?

5 A No.

6 Q Did you testify, I believe you did, I just want to
7 confirm, did you testify on direct that Mr. Lockhart
8 told you he was a member of Local 30 of the Operating
9 Engineers?

10 A Yes.

11 Q Did he perhaps tell you how long he had been a member
12 of that union?

13 A No.

14 Q Do you know if he remained a member of that union?

15 A I don't know.

16 Q Did he ever tell you that he left that union?

17 A No.

18 Q Do you know if Colonie Hill ever laid Mr. Lockhart
19 off or fired him because of his membership in Local 30?

20 A No.

21 Q You testified that in the beginning of January of 1973
22 you were laid off at Colonie Hill?

23 A That is correct.

24 Q Was any reason stated to you for the lay-off in the
25 beginning of '73?

1 A The reason was that the company was slow, wasn't
2 making any money.

3 Q From your knowledge of having worked at Colonie Hill
4 would you agree that January and February is a rather
5 slow period in that catering business?

6 A I believe so.

7 Q Was any statement made to you at the time you were
8 laid off in January of 1973 that you were being laid off
9 because of your membership in some union?

10 A The union wasn't in effect at that time so it couldn't
11 have been a layoff for that reason.

12 Q My question is was any statement ever made to you
13 in January of '73 --

14 A No.

15 Q (Continuing) To that effect?

16 A No.

17 Q Were you eventually rehired by Colonie Hill?

18 A Yes.

19 Q Is that the testimony that you gave concerning your
20 telephone conversation with Mr. Napolitano sometime in
21 February of 1973?

22 A This was the reason why I was rehired, was because
23 I had to do a specific job, you know, repair the heating
24 coil and the air conditioning coil and I believe because
25 of the results of this is the reason why I was hired.

1 Q Is that the conversation you had over the telephone
2 with Mr. Napolitano sometime in February of 1973?

3 A Yes.

4 Q When you were rehired at that time who was the
5 supervisor of the maintenance department?

6 A Mr. Art Dickerson was still there.

7 Q Did there come a time when Mr. Dickerson left the
8 employ of Colonie Hill?

9 A Yes. The reason why I was rehired because he was
10 resigning.

11 Q Was that in February or March of 1973?

12 A Well, I was called back in February.

13 Q Was Mr. Dickerson still in their employ for some
14 period of time after you came back?

15 A Yes.

16 Q Would it be a fair statement to state that Mr.
17 Dickerson left the employ of Colonie Hill sometime in
18 March of 1973?

19 A I would say near the end of February because he
20 stayed on about two weeks after I was rehired.

21 Q Do you know if Mr. Dickerson resigned or was fired?

22 A He resigned.

23 Q Did there come a time in March of 1973 that Mr.
24 Lockhart was made supervisor of the maintenance department
25 at Colonie Hill?

1 A I believe it was in April is when I had the
2 discussion with Mr. Neilson that he was going to put Bob
3 Lockhart as maintenance supervisor.

4 Q Who was Mr. Neilson?

5 A Mr. Neilson was at that time in charge of the golf
6 course, the health club and just acquired the building
7 superintendent's job.

8 Q At the time Mr. Lockhart became supervisor of the
9 maintenance department either sometime in March or,
10 according to your testimony, in April of 1973, did you feel
11 bitter or resentful over this fact that he became the
12 supervisor?

13 A I was bitter at the beginning because Peter Napolitano
14 had promised me that job and right after Peter had
15 confirmed that he couldn't do anything for me I went to
16 see Skip Neilson as I testified yesterday, and ironed out
17 all the difficulties, but there was no hard feelings after
18 that.

19 There was actually no hard feelings before that
20 neither, just trying to straighten out who was supposed
21 to be the supervisor.

22 Q Isn't it a fact, Mr. Squicciarini, that you told
23 other employees of Colonie after Mr. Lockhart was made
24 supervisor that as far as you were concerned you weren't
25 going to do the work you were doing before and in fact were

1 taking some of your tools back home?

2 A I just said I was going to take my tools back, that's
3 all, and I was going to perform the duties that were
4 expected of me as a plumber.

5 Q Is it also a fact, Mr. Squicciarini, that you were
6 advised a number of times by Colonie Hill personnel that
7 your work was slipping after Mr. Lockhart became
8 supervisor?

9 A Never.

10 Q Didn't Mr. Neilson advise you on two different
11 occasions that your work was not p to par?

12 A No.

13 Q Isn't it a fact that you were fired on April 16th as
14 a result of improper work at the project by Mr. Neilson?

15 A No.

16 Q Were you fired on April 16th, Mr. Squicciarini?

17 A I was fired for the reason of determining whether I
18 should work on a Sunday or not because of my obligation
19 to the Navy Reserves. I go every second or third weekend
20 of a month to the Navy Reserves, and it was kind of
21 difficult for me to be working and go to the Reserves on
22 a Sunday.

23 Q Isn't it a fact that Colonie Hill made arrangements
24 for you to be off on weekends for your reserve duty, Mr.
25 Squicciarini?

1 A No.

2 Q Isn't it a fact that you testified that prior to
3 your discharge in June of 1973 that you spent two weeks
4 at the Naval Reserve?

5 A That is correct.

6 Q Did this entail Saturdays and Sundays at the Reserve?

7 A It entailed two weeks.

8 Q Did it encompass Saturdays and Sundays?

9 A I believe Saturday and Sunday came in within the two
10 weeks, yes.

11 Q Isn't it a fact, Mr. Squicciarini, that Colonie Hill
12 did make arrangements for you to be off on the weekends in
13 order to meet your Naval Reserve duty?

14 A No, I had to come in on a Friday to resolve that
15 situation on my day off.

16 Q On April 16th when you were fired, Mr. Squicciarini,
17 were you rehired on the same day?

18 A Yes, I was.

19 Q After April 16th, Mr. Squicciarini, were you ever
20 advised by any personnel, by any supervisory personnel
21 of Colonie Hill that your work was not up to par?

22 A No.

23 Q At the time of your discharge, Mr. Squicciarini,
24 isn't it a fact that Mr. Neilson advised you you were being
25 let go because you had been previously warned about your

1 work, had done nothing about it?

2 A No.

3 Q You testified that you signed a card with Local 30
4 some time prior to the election between Local 100 and
5 Local 164 in December of 1972, correct, Mr. Squicciarini?

6 A Yes.

7 Q Do you know if Local 30 attempted to get on the ballot
8 for that election?

9 A Yes.

10 MR. DONELAN: I would like to point out to the Court,
11 your Honor, that the petition of Local 30 to get on the
12 ballot at Colonie Hill for the election that was held in
13 December was withdrawn with the consent of Mr. Kaynard
14 of the National Labor Relations Board and that is Exhibit 4
15 in evidence -- excuse me, I'm sorry, your Honor.

16 MR. FISH: There is no exhibit. I will stipulate that
17 the motion to intervene was withdrawn by Local 30.

18 MR. DONELAN: With the consent of the NLRB.

19 MR. FISH: Yes.

20 JUDGE BOTT: All right.

21 Q Mr. Squicciarini, you testified that you had three
22 conversations with Mr. Trockel, two before you signed the
23 Local 30 card, I believe one after you signed the card,
24 to the effect that he is alleged to have said to you if
25 you didn't sign for Local 100 you would be fired.

1 A Correct.

2 Q Could you tell us where these conversations took place?

3 A Yes, right out by the main lobby on the main corridor
4 over there by the Wonder Falls was one of them.

5 Another one was near the kosher kitchen.

6 Q Were there any other persons present besides yourself
7 and Mr. Trockel when these conversations were alleged
8 to have taken place?

9 A Not at the time when he told me about -- when I told
10 him I was with Local 30, that Local 30 would be a better
11 representative for me.

12 But before that it was Tony Cabanas, Ray Garcia,
13 Tony Garcia and Jim Fabiano.

14 Q After any one of these conversations that you had with
15 Mr. Trockel were you fired by Colonie Hill? Immediately
16 after any one of these conversations or within a week after?

17 A No.

18 Q You have also testified, Mr. Squicciarini, that you
19 spoke to Mr. Trockel after Mr. Lockhart became supervisor
20 in which you stated to him you didn't have to become a
21 member of the union because you were a supervisor.

22 Isn't it a fact --

23 A This was before I found out that Lockhart was going
24 to be a supervisor.

25 Q Isn't it a fact that at that time Mr. Trockel said to

1 you he knew nothing of your being a supervisor for
2 Colonie Hill?

3 A That is correct.

4 Q Isn't it a fact that no one else at Colonie Hill knew
5 anything about you being a supervisor?

6 A No, it is not.

7 Q Did any of the other people that worked in the
8 maintenance department tell you they considered you the
9 supervisor of the maintenance department?

10 A Not really.

11 Q You testified that after Mr. Lockhart was made super-
12 visor that you had a conversation with Mr. Neilson. Do
13 you recollect that conversation?

14 A Yes.

15 Q I believe you testified that Mr. Neilson said that he
16 was sorry, is that the substance of the conversation?
17 I believe you testified on direct that Mr. Neilson said
18 words to the effect, "I'm sorry, but there is nothing I
19 can do about it".

20 A No, wrong. That was Peter --

21 Q I am sorry, Mr. Napolitano, forgive me.

22 Isn't it a fact that Mr. Napolitano said to you during
23 that conversation that you had never been promised any
24 supervisor's position?

25 A Not true.

1 Q Mr. Squicciarini, you are aware that an election
2 was held in December of 1973?

3 A Yes.

4 Q Were you aware as a result of that election that
5 Local 100 became or was certified as collective
6 bargaining agent for all employees of Colonie Hill except
7 security personnel?

8 A Yes.

9 MR. DONELAN: I have no further questions.

10 REDIRECT EXAMINATION

11 Q (By Mr. Fish) You were asked, Mr. Squicciarini,
12 about an incident that occurred in April in which you
13 were fired for a day and rehired?

14 A That is correct.

15 Q Would you elaborate a little on that, please?

16 A Yes, they wanted me to come in on a Sunday.

17 Q Who wanted you to come in?

18 A Skip Neilson and Bob Lockhart.

19 Q Go ahead.

20 A When I first signed up with Colonie Hill I told them,
21 I requested I would work from Monday to Friday, being
22 that I have a Navy obligation duty to go away on weekends.

23 Q How often do you go away?

24 A One weekend a month. Might be the second weekend
25 or the third weekend whichever how it falls, and it was

1 impossible for me to come to work and go to the reserve
2 meetings.

3 Skip Neilson, myself, we resolved on my day off on
4 a Friday in order to get off Sunday, I would come in.

5 Q When you had reserve?

6 A Right.

7 Q What happened on this particular occasion then that
8 you were fired?

9 A Because I had told him I couldn't make it, I wouldn't
10 come in on a Sunday because of my reserve obligation and
11 when I straightened it out with Skip he said, "We will see
12 that you come in on your day off" and then I agreed.

13 Q What was the normal arrangement with respect to this,
14 Mr. Squicciarini?

15 A Excuse me?

16 Q What was the normal arrangement with respect to this
17 problem?

18 A Normal arrangement?

19 Q You had your reserve weekend every month?

20 A Yes, I would come in on a Friday in order to get
21 Sunday off when I had to go to any meeting. This is how
22 we worked it out. But normally I would work from Sunday
23 to Thursday.

24 Q So what happened on this particular week?

25 A Which week was that?

1 Q The week that you were fired.

2 A What happened? He just told me, he says, "Don't come
3 in on Sunday, you're fired".

4 Q Who was that, Neilson?

5 A Mr. Skip Neilson, "So I had no alternative than to
6 fire you".

7 Q Then what happened?

8 A At that time he told me, "I'm sorry, nothing to do
9 with your work, I like your work" and he says, "but I
10 have no alternative but to fire you if you don't come in
11 on Sunday."

12 I said, "Well, I have to come in on Sunday? If I
13 have to come I will quit the Reserves but I would like
14 not to quit the Reserves."

15 Q Then what happened after that?

16 A He says, "Well, we can work that out. You come in on
17 your day off", he says, and Bob Lockhart was present at
18 the time, and he says -- well, Bob says, "Okay, come in
19 on a Friday and take that day off."

20 MR. FISH: No further questions.

21 MR. DONELAN: No questions.

22 JUDGE BOTT: You are excused.

23 (Witness excused)

24 MR. FISH: Can we go off the record?

25 JUDGE BOTT: Off the record.

1 (Discussion off the record)

2 JUDGE BOTT: On the record.

3 MR. FISH: Pursuant to an off-the-record discussion
4 we arrived, I believe, at one stipulation and one document
5 which we would like to put into evidence.

6 The document I would like marked is General Counsel's
7 Exhibit 9, an informal settlement agreement which was
8 executed by various parties, including Colonie Hill,
9 Local 100 and Local 164 who was the charging party in
10 these cases and this settlement agreement was executed on
11 November 2, 1972 by Andrew DeLillo on behalf of Colonie
12 Hill, Marino Abbadadolo in behalf of Local 100, and
13 James Ward on behalf of Local 164.

14 JUDGE BOTT: This is the settlement agreement which
15 preceded the election?

16 MR. FISH: Right.

17 JUDGE BOTT: Was the foundation?

18 MR. FISH: Yes.

19 JUDGE BOTT: I understand. That can go in by agreement.

20 (Document received in evidence
21 as General Counsel's Exhibit 9,
of this date)

22 MR. FISH: In addition to that, we would like to
23 stipulate that sometime in July of 1973, Colonie Hill
24 and Local 100 executed a collective bargaining agreement
25 designating the union as the sole and exclusive bargaining

1 representative for the whole series of employees.

2 MR. DONELAN: I will take the stipulation without the
3 categorication. The document will speak for itself.

4 I will stipulate there was an agreement dated July blank,
5 '73 entered into between Colonie Hill and Local 100.

6 JUDGE BOTT: We don't have the agreement?

7 MR. DONELAN: Yes, we do.

8 MR. FISH: We don't have it in evidence.

9 JUDGE BOTT: Not in evidence.

10 MR. FISH: I don't think we need it.

11 JUDGE BOTT: All he is trying to do is get to this
12 and I am sure it did recognize the union as the sole
13 collective bargaining representative.

14 MR. DONELAN: Correct, it did.

15 JUDGE BOTT: That is in the record. We can agree on
16 that.

17 Is there anything else, Mr. Fish?

18 MR. FISH: No.

19 MR. DONELAN: I don't mean it to be an implicit
20 exclusion of any prior representation. That statement can
21 carry an implicit exclusion of Local 100 as representing
22 the union prior to that date, as representing the employees
23 of Colonie Hill prior to that date.

24 That is the only reason I had some difficulty.

25 JUDGE BOTT: There is no implication about what the

1 status of Local 100 was or was not.

2 MR. DONELAN: Prior to the July date.

3 JUDGE BOTT: Correct.

4 MR. FISH: I want to indicate for the record on
5 the exhibit I just introduced, General Counsel 9, I
6 did not introduce signed copies.

7 Rather, unsigned copies, but as I indicated on the
8 record, it was dated 11/23/72 and signed by various
9 representatives.

10 I want to make that clear.

11 JUDGE BOTT: All right. I think it is tacitly
12 understood everybody agrees that a settlement agreement
13 was properly executed by the parties.

14 MR. FISH: James Staats.

15 Whereupon,

16 JAMES STAATS,

17 having been duly sworn by Judge Bott, was examined as
18 follows:

19 DIRECT EXAMINATION

20 Q (By Mr. Fish) Mr. Staats, give your full name and
21 address.

22 A James Richard Staats, 94 Third Street, Islip, New
23 York 11751.

24 Q Mr. Staats, when did you first become employed at
25 Colonie Hill?

1 A That was in May of 1972.

2 Q In what capacity?

3 A As operating engineer for their boiler room and
4 air conditioning and associated equipment.

5 Q Mr. Staats, did there come a time in your employment
6 when you signed a card for Local 30?

7 A Yes.

8 MR. FISH: Mark this as General Counsel Exhibit 10 for
9 identification.

10 (Document marked General Counsel's
11 Exhibit 10 for identification,
of this date)

12 Q I show you General Counsel's Exhibit 10 for
13 identification.

14 Will you tell us what that document is?

15 A This is the card I signed to join up with Local 30.

16 MR. DONELAN: No objection.

17 MR. FISH: I move that it be introduced into evidence.

18 JUDGE BOTT: It is admitted.

19 (General Counsel's Exhibit 10
20 for identification received
in evidence, of this date)

21 Q Mr. Staats, at the time you signed this card there
22 was an election pending?

23 A Yes.

24 Q With Local 100 at the time?

25 A Yes.

1 Q After this election, Mr. Staats, were you laid
2 off for a period of time?

3 A Yes, in January of 1973 I was laid off.

4 Q For how long?

5 A Until late March of 1973.

6 Q Late March?

7 A Yes.

8 Q After you returned from the layoff in March of '73
9 did you have any discussions with any company officials
10 concerning any union?

11 A Just one.

12 Q Tell us about it, please.

13 A I was coming in to pick up my pay check one afternoon
14 and there were quite a few people signing up with Local 100
15 and Mr. Joe Trockel had asked to see me after I had picked
16 up my check and he told me I had to join Local 100.

17 Q And?

18 A I asked him if I still had any initiation period to
19 go through and he had told me.

20 Q If you had your what?

21 A Initiation period. I believe it was 30 days before I
22 had to join the union.

23 And he had said no, that I was here prior working
24 at Colonie Hill prior to this, and I had no other break in
25 time.

1 I said if I didn't have any time and I didn't
2 join the union what would happen? And he said I would
3 be out of a job.

4 Q What did you do then?

5 A I just walked away from him.

6 Q Just walked away?

7 A Yes.

8 Q Did you join at that time?

9 A No, I didn't.

10 Q About how long after that incident was your salary cut?

11 A About a week, a week or two, I'm not quite sure.

12 Q How were you so informed about your salary cut?

13 A I came in on another pay day and I ran across Bob
14 Lockhart and at that time Bob said he had something to
15 tell me, that he would like to go down and talk with
16 Skip Neilson about it.

17 On the way over to his office we ran across him in
18 the lower lobby of the motel and he had told me that my
19 pay was cut to between \$4.10 and \$4.25 an hour.

20 I asked him why. He said because I have to join
21 Local 100 and I have to be paid according to their scales.

22 I told him I wasn't sure what I would do with the
23 time and he said he understood, and shortly after, a
24 few days after I told the Labor Board, I called the Labor
25 Board and they told me that being Local 100 was

1 negotiating a new contract, to wait and see what they
2 did about it before you would take any action upon it.

3 Q How much was your salary cut?

4 A It was cut from \$225 a week, \$235 a week to \$164
5 a week.

6 Q Was anyone else's salary cut at the time?

7 A Mr. Eckart's.

8 Q Anyone else in your department?

9 A No, just the two of us at that time.

10 Q Subsequently, subsequent to that other people in
11 the --

12 A Mr. Squicciarini and Mr. Cabana's salaries were cut.

13 Q How long after your salary was cut was theirs?

14 A Three, four weeks.

15 Q Did you have any discussions with anyone from the
16 union, Local 100 about the salary cut?

17 A At a union meeting with Mr. O'Keefe we discussed the
18 salary cut and he had told us Mr. DeLillo had sent a
19 letter to him stating that he was no longer in need of
20 maintenance mechanics or boiler room engineers. He was
21 now in need of maintenance men and boiler room attendants,
22 and subsequently would pay 4.35 for maintenance men and
23 \$5 an hour for boiler room attendants.

24 Q Did Mr. O'Keefe have any discussions with you about
25 what kind of work you employees should do?

1 A At a later time Mr. Squicciarini and myself
2 were at another meeting and they told us as long as,
3 being we were not being paid the wages we were getting
4 we should not do the technical work involved in the job.

5 Q Did you pass on these instructions to any company
6 officials?

7 A I spoke to Mr. Lockhart and Mr. Neilson about this
8 and they had in turn spoke to Mr. Napolitano who at
9 that time told them if we didn't do what we were told we
10 were to be fired.

11 MR. FISH: No further questions.

12 JUDGE BOTT: Just a second, Counsel.

13 I am a little confused. When did this certification
14 of Local 100 issue?

15 MR. DONELAN: December 26, 1972.

16 JUDGE BOTT: '72?

17 MR. DONELAN: Yes, sir.

18 JUDGE BOTT: All right, this conversation is in
19 February '73 he is relating with Trockel.

20 MR. FISH: March, I believe.

21 JUDGE BOTT: After he came back in February.

22 MR. FISH: Yes. Well, MR. Squicciarini's conversation
23 was in February. Mr. Staats' conversation was in March,
24 the one he is referring to.

25 Mr. Squicciarini came back in February, Mr. Staats

1 returned in March.

2 JUDGE BOTT: All right.

3 Now, one other thing which doesn't have anything to
4 do with him. I am sure this is insignificant, unimportant,
5 but interesting, this tally of ballots.

6 The approximate number of eligible voters is 64.
7 That is obviously --

8 MR. FISH: For this unit. See, there were two units,
9 your Honor. There was a unit basically of service
10 employees which is this union, and there are approximately
11 64 employees.

12 JUDGE BOTT: There was another election?

13 MR. FISH: Yes.

14 JUDGE BOTT: Off the record.

15 (Discussion off the record)

16 JUDGE BOTT: On the record.

17 CROSS EXAMINATION

18 Q (By Mr. Donelan) You testified you came to work
19 for Colonie Hill, Mr. Staats, sometime in May of 1972?

20 A Yes.

21 Q At that time were you a member of Operating Engineers 30?

22 A No, sir.

23 Q Were you a member of 775 Plumbers?

24 A No.

25 Q Were you a member of any union at that time?

1 A No, sir, I wasn't.

2 Q At the time you made employment at Colonie Hill did
3 they question you as to any union membership as a basis
4 for giving you employment or denying you employment?

5 A No.

6 Q Did they request you put some information on any
7 application that you file for employment?

8 A As far as union goes?

9 Q Correct.

10 A I don't recall.

11 Q You also testified there came a time in January, 1973
12 that you were laid off.

13 Was any reason stated to you by any Colonie Hill
14 representative at that time as to why you were being laid
15 off?

16 A There was a general cutback due to financial slowdown.

17 Q Would you agree --

18 A Continuing of business.

19 Q Business was rather slow at that time for Colonie Hill?

20 A Yes.

21 Q Did you at that time give any thought that the reason
22 you might be let go at that time was because you had
23 signed a card with Local 30?

24 MR. FISH: Objection.

25 JUDGE BOTT: What is the question?

1 (Whereupon the pending question was read by
2 the reporter)

3 JUDGE BOTT: Is this during that layoff that you
4 considered economic --

5 MR. DONELAN: Yes, sir.

6 MR. FISH: There is no allegation that this layoff was
7 anything but lawful.

8 JUDGE BOTT: This is background that the employer has
9 been putting in since yesterday.

10 MR. FISH: It is more important and what is the
11 difference what Mr. Staats thought?

12 JUDGE BOTT: That is probably a valid objection, I
13 will sustain the objection.

14 Q Was any statement made to you in or around January
15 of 1973 when you were laid off that you were being laid
16 off because you signed a card with Local 30?

17 A No, sir.

18 Q You were rehired, I believe, by Colonie Hill in
19 March of 1973?

20 A Yes.

21 Q At the time you were rehired did they question your
22 membership in any union?

23 A No, they didn't.

24 Q I believe you testified you were receiving \$225 a
25 week.

1 A Yes.

2 Q Prior to sometime in March 1973?

3 A I beg your pardon?

4 Q Sometime in March of 1973 is the time your pay was
5 cut or was it in April?

6 A I believe it was in April.

7 Q At the time your pay was cut in April, Mr. Staats,
8 were you advised by any representative of Colonie Hill
9 as to why your pay was being cut?

10 A Yes. Like I have stated before, Mr. Skip Neilson had
11 told me that because I had to join Local 100 that I would
12 be paid according to their pay scales, and that it would
13 be between \$4.10 and \$4.25 an hour.

14 Q When did Mr. Neilson say this to you, Mr. Staats?

15 A I don't know exactly when it was but it was I
16 believe -- it was on a Tuesday sometime in April.

17 Q Was there anybody present at the time Mr. Neilson
18 made these statements to you?

19 A Mr. Lockhart and Mr. Eckart.

20 Q How many employees were in the maintenance department
21 in April of '73?

22 A Well, in my direct department there were just myself,
23 Mr. Eckart and Mr. Lockhart and the other department was
24 Squicciarini and Tony Cabanas.

25 Q Did Mr. Lockhart tell you at the time you pay was cut

1 that his pay had also been cut?

2 A No, he didn't.

3 Q Did Mr. Lockhart tell you at the time your pay was
4 cut that the pay of Mr. Squicciarini and Mr. Cabanas and
5 Mr. Eckart were also cut?

6 A Well, I was told that Mr. Eckart's was cut but not
7 that Mr. Cabanas or Mr. Squicciarini's was cut.

8 Q Did you subsequently find out that Mr. Cabanas' pay
9 was cut?

10 A Not until later on did their cut come about.

11 Q Did you find out at some subsequent date that Mr.
12 Lockhart's pay had also been cut?

13 A No, I have no idea.

14 MR. DONEGAN: Just one minute, please.

15 JUDGE BOTT: Yes.

16 Q Mr. Staats, at the time of the pay reduction, at
17 the time Mr. Lockhart told you there would be a pay
18 reduction, to come into effect, did you in effect agree
19 with him that you were going to take the pay reduction?

20 A No, sir.

21 Q Isn't it a fact that you told Mr. Lockhart that you
22 would agree to the pay reduction because the only alternative
23 was that many people were going to be laid off at that
24 time because of the conditions at Colonie Hill?

25 A No, sir.

1 Q Were you still employed at Colonie Hill in June
2 of 1973?

3 A Yes, I was.

4 Q Were you aware of in excess of 160 people being laid
5 off at Colonie Hill in June of 1973?

6 A No, sir, I don't recall it.

7 Q Did you become a member of Local 100, Mr. Staats?

8 A Yes, I did.

9 Q When was that?

10 A That was after my pay had been reduced.

11 Q Did you receive an increase in pay in July of '73
12 when a new contract was signed between Colonie Hill and
13 Local 100?

14 A No, sir.

15 Q Was your pay increase from that time from 4.10 an
16 hour to 4.35 an hour?

17 A Yes, I'm sorry, yes, it was, I believe it was.

18 MR. DONELAN: I have no other questions.

19 MR. FISH: No questions.

20 JUDGE BOTT: You are excused, Mr. Staats.

21 MR. FISH: I call Werner Eckart, please.

22 Whereupon,

23 WERNER ECKART

24 having been sworn by Judge Bott testified as follows:

25 DIRECT EXAMINATION

1 Q (By Mr. Fish) Your name and address for the
2 record, please.

3 A Werner Luhr Eckart, South Westgate (phonetic) Drive,
4 Apartment 16, Bohemia, New York.

5 Q When were you employed at Colonie Hill?

6 A March 28, 1973.

7 Q Mr. Eckart, did you ever have any discussions
8 concerning Local 100 with any company officials?

9 A Not until after the pay cut, about a week after was
10 my first discussion.

11 Q What was it?

12 A Well, that was with Mr. Lockhart. He had stated we
13 had to join the union, Jimmy Staats and myself had to
14 join the union, otherwise we would be out of a job, lose
15 our jobs.

16 Q When your pay was cut, Mr. Eckart, how were you so
17 notified?

18 A Well, I was in the boiler room with Bob Lockhart.
19 We were working on steam fasters when Jimmy Staats came
20 early for his check. Lockhart notified us that we were
21 to go see Mr. Neilson and we met him in the motel and he
22 had told us that Colonie Hill was only going to pay us
23 the union scale at the time.

24 Q Of what?

25 A Four ten, between four ten, four twenty-five or --

1 Q They were only going to pay you the union scale?

2 A Yes.

3 Q What union?

4 A Local 100, that was the only union.

5 Q Did he say anything about joining the union at that
6 time?

7 A No, nothing said about joining the union at that time.

8 Q What was your salary cut from?

9 A \$5 an hour to 4.10.

10 Q Did you subsequently join the union?

11 A Well, about a week later when Bob had mentioned about
12 joining the union, I think a day or two after that I saw
13 Mr. Trockel and signed a card and paid my dues.

14 MR. FISH: No further questions.

15 CROSS EXAMINATION

16 Q (By Mr. Donelan) Mr. Eckart, at the time you came
17 to work for Colonie Hill in March of 1973 did anybody ask
18 you about your affiliation with any labor organization?

19 A No.

20 Q Did they ask you if you were a member of Local 30?

21 A No.

22 Q A member of Local 775?

23 A No.

24 Q Local 100?

25 A No.

1 Q Local 164?

2 A No.

3 Q At the time you came to work for Colonie Hill in
4 March of 1973, Mr. Eckart, were you aware that Local 100
5 had been certified as the collective bargaining agent
6 for the employees at Colonie Hill?

7 A Yes. I had known that when they had the election.

8 Q You had known about it when the election was had,
9 even though you were not employed at Colonie Hill at that
10 time?

11 A No.

12 MR. DONELAN: I have no further questions.

13 JUDGE BOTT: You are excused.

14 (Witness excused)

15 MR. FISH: General Counsel rests.

16 JUDGE BOTT: Is the respondent ready to proceed?

17 MR. DONELAN: Yes, your Honor.

18 I call Mr. Peter Napolitano.

19 Whereupon,

20 PETER NAPOLITANO

21 having been sworn by Judge Bott, testified as follows:

22 DIRECT EXAMINATION

23 Q (By Mr. Donelan) Please give us your name and
24 address.

25 A Peter Napolitano, 17 Woodmere Place, Dix Hills,

1 Huntington, 11746.

2 Q Mr. Napolitano, by whom are you presently employed?

3 A Colonie Hill.

4 Q How long have you been employed by that company?

5 A From March, '72.

6 Q Will you tell us what positions you hold or held
7 during the period of time that you have been employed?

8 A Assistant controller and assistant personnel director.

9 Q Have you held both those positions from the time you
10 came to work for Colonie Hill in March of 1973?

11 A Yes, I did, March of '72.

12 Q Forgive me, March of '72.

13 A Yes.

14 Q Mr. Napolitano, were you aware ^{of} some dispute between
15 two labor organizations at Colonie Hill during the year
16 1972?

17 A Yes.

18 Q Were you also aware of an election being held at
19 Colonie Hill under the auspices of the NLRB in December of
20 1972?

21 A Yes, I did.

22 Q As a result of that election in December of '72
23 were you also aware that Local 100 was certified as the
24 collective bargaining agent for employees of Colonie Hill?

25 A Yes, I was.

1 Q Mr. Napolitano, prior to the time of the
2 dispute between the labor organizations known as Local 100
3 and Local 164 during the year 1972, had Colonic Hill
4 entered into a collective bargaining agreement with
5 Local 100?

6 A In March of '72.

7 Q I'm sorry, what was your answer?

8 A In March of '72.

9 MR. DONELAN: Please mark this for identification.

10 (Document marked Respondent's
11 Exhibit 1 for identification,
of this date)

12 Q Mr. Napolitano, the document which has just been
13 marked Respondent's Exhibit 1 for identification, is this
14 the collective bargaining agreement that you referred to
15 in your testimony?

16 A That is correct.

17 MR. DONELAN: I would like to offer this as Respondent's
18 first exhibit.

19 JUDGE BOTT: That is the first contract?

20 MR. DONELAN: Right, your Honor.

21 JUDGE BOTT: Any objection?

22 MR. FISH: Let me look at it.

23 No objection.

24 JUDGE BOTT: Respondent's 1 is admitted into evidence.

25 (Respondent's Exhibit 1 for

identification received in
evidence, of this date)

1
2
3 Q Mr. Napolitano, did you become aware that as a
4 result of a dispute between Local 100 and Local 164 that
5 a settlement agreement was entered into sometime in
6 November, 1972 between those two unions and Colonie Hill
7 Limited?

8 A Yes.

9 Q Were you also aware, Mr. Napolitano, during the period
10 of November 2, 1972 through December 26th of '72, do you
11 know of anything that was done by you or any other
12 representative of Colonie Hill to enforce the collective
13 bargaining agreement which has been marked Respondent's
14 Exhibit 1 in evidence?

15 A Repeat the first part.

16 Q During the period November 2, 1972 and December
17 26, 1972 do you know of any act or thing that was done
18 by you or any other representative of Colonie Hill to
19 enforce the collective bargaining agreement of March
20 4, 1972?

21 A No, I don't.

22 Q Mr. Napolitano, are you aware that an election was
23 held at Colonie Hill in 1972, December?

24 A Correct.

25 Q Are you aware that as a result of that election Local
100 was certified as collective bargaining agent at

1 Colonie Hill?

2 A Yes, I do.

3 Q Subsequent to the certification of Local 100 as the
4 collective bargaining agent, did Colonie Hill and Local 100
5 immediately enter into a new agreement after the
6 December 26 election?

7 A No.

8 Q Do you know if Colonie Hill and Local 100 continued
9 to operate under the substantive features of the agreement
10 of March 4, 1972?

11 A Yes, they did.

12 Q Did there come a time when a new collective bargaining
13 agreement was entered into between Local 100 and
14 Colonie Hill?

15 A Yes, July of '73.

16 Q Did Colonie Hill have in its employ in 1972 and 1973
17 a man by the name of Mauro Squicciarini?

18 A Yes, they did.

19 Q Do you know when he came to work for Colonie Hill?

20 A I would have to go back to the information we have,
21 but at some time in '72.

22 Q Was Mr. Squicciarini working there prior to your
23 coming with the company?

24 A No, I was there first.

25 Q Would you consider his employment as having started

1 relatively early in 1972?

2 A Yes, right, March, '72 maybe.

3 Q Mr. Napolitano, would you be kind enough to explain
4 to the Court just what Colonie Hill is?

5 A Surely. Colonie Hill is a complex. It is a city
6 within a city, to be truthful.

7 In this complex we have banquet facilities which
8 are the catering business. We have bars, restaurants.
9 We have overnight accommodations, health club, swimming
10 pools, and on the outside perimeter area of that we have
11 a golf course, 7200 yards. That is it.

12 JUDGE BOTT: You don't have to explain that to me.

13 Q Mr. Napolitano, having been connected with Colonie
14 Hill since its opening and when did Colonie Hill open,
15 by the way?

16 A March of '72.

17 Q After having been connected with it since its
18 opening, Mr. Napolitano, and in the position as assistant
19 controller of the corporation, could you tell us the
20 mainstay of Colonie Hill's business? Could you tell us
21 whether it is golf, the restaurant, the health club?

22 A The actual main thing at Colonie Hill is the catering
23 facilities that we have. That is the backbone of our whole
24 operation and most money comes in through this area,
25 catering.

1 Q Would you consider or is the business of Colonia
2 Hill as far as the catering operation a reasonable
3 business to any effect?

4 A Yes, the months vary. For example, as you probably
5 heard already January and February are really our slowest
6 months.

7 We seem to go down into a slow point in January
8 and February and between March and June is average.

9 Our busiest months would be November, December,
10 July and August and September and October. Those I would
11 say are the busiest periods on months that we have.

12 Q Did there come a time in the beginning of 1973
13 that Mr. Squicciarini was laid off?

14 A Yes.

15 Q Do you know when that was, Mr. Napolitano?

16 A It was in January of '73. There were many others that
17 were laid off at that same period of '73.

18 Q Do you know the circumstances under which he was
19 let go at that time?

20 A Yes. Well, I can say at that time we were -- say it
21 was actually a slowdown that period. Like I just testified,
22 that January and February are slow months, and we were
23 trying to save actually money by cutting down our staff
24 because the facilities would not be busy at that point
25 so we actually cut down at that area.

1 We actually cut help to be truthful.

2 Q Mr. Napolitano, prior to Mr. Squicciarini's being
3 laid off in the beginning of 1973 had you ever had any
4 discussions with Mr. Squicciarini relative to his
5 membership or non-membership in any labor organization?

6 A No.

7 Q Did there come a time when Mr. Squicciarini was
8 rehired, Mr. Napolitano?

9 A Yes, he was rehired by me.

10 Q When was that?

11 A Recollection is that at the end of February there
12 was a telephone conversation between me and Mr.
13 Squicciarini where I actually asked him to come into my
14 office, we would talk about him coming back to Colonie Hill.

15 It was a coincidence actually because he had just
16 finished some work he was doing for Colonie Hill so he
17 told me he would meet me, I think it was a few days
18 after our telephone conversation.

19 He came in and we were talking.

20 Q Let us back up one minute before you go on.

21 You said there was a telephone conversation. Could
22 you tell us what was said in that telephone conversation,
23 Mr. Napolitano, if you remember?

24 A Yes, I asked him if he was still interested in coming
25 back to Colonie Hill to work. He said very much so.

1 I says, "Well, would you like to come back? If
2 you would come in to see me and we will have a little
3 conversation and we will see what we can do about your
4 coming back."

5 Q Did you say anything further to him in this telephone
6 conversation that you recollect?

7 A No, only that he would have to come in and we would
8 have a conversation.

9 Q What did Mr. Squicciarini say to you?

10 A That he would be there in a few days because he had
11 to come in to collect a bill or for some private work
12 which he did for Colonie Hill.

13 Q Did Mr. Squicciarini come in to see you in a couple
14 of days?

15 A Yes, he did.

16 Q Was there anyone else present at the time that you
17 had that meeting?

18 A Yes, George Russo.

19 Q During that meeting, Mr. Napolitano, could you tell
20 us what was said by you and what was said by Mr.
21 Squicciarini?

22 A Yes, I had asked him to come back. He was very willing
23 to come back. We talked about a salary.

24 He was so anxious to come back he originally wanted
25 300 to come back, 300 a week.

1 We said, well, the we could offer at this
2 point was 270 and in talking back and forth we finally
3 agreed at 280 a week which I think was -- yes, 280 a
4 week is correct.

5 In the conversation he had asked myself and George
6 Russo would there ever be a possibility of him becoming
7 the supervisor of the maintenance department, and I
8 remember replying to him that only the future would tell
9 that.

10 There was no opening at that position at this time
11 and he actually agreed to come back.

12 Q During that conversation, Mr. Napolitano, did you
13 make any statement to Mr. Squicciarini that if he did
14 come back he would be made supervisor of the maintenance
15 department?

16 A No. He asked that question.

17 Q Did Mr. Squicciarini return to work at Colonie Hill?

18 A Yes, he did.

19 Q Was it after your conversation with him?

20 A After our conversation, correct.

21 Q I believe you said you agreed on his rate of pay at
22 that time of \$280 a week?

23 A That is correct.

24 Q Mr. Napolitano, did there come a time when some
25 problem arose concerning Mr. Squicciarini's work?

1 A Yes.

2 Q Would you explain or give us the background
3 concerning this?

4 A Well, I think the actual month was in March, the tail
5 end of March where Mr. Neilson -- I beg your pardon, it
6 was in the beginning of March -- the middle of March
7 when Mr. Neilson appointed Mr. Lockhart the new supervisor
8 for maintenance.

9 He picked him supposedly in conversation with myself,
10 stating that he felt that Mr. Lockhart was more qualified
11 than Mr. Squicciarini at this point to become the
12 supervisor of that department.

13 After his becoming the supervisor Mr. Neilson came
14 to me and stated -- this was the beginning of April --
15 that he was having some problems with Mr. Squicciarini,
16 that his work had fell off because of the situation that
17 he believed he was resentful because he did not become the
18 supervisor of that department.

19 At one point, I think it was April 16th, where I had
20 made up a check on the request of Mr. Neilson and the
21 reason was that he was going to let Mr. Squicciarini go
22 because he felt his work wasn't adequate enough at this
23 point because it seemed like he was giving him certain
24 specific jobs to do and they were not being completely
25 done, you know, at the speed they should have been done.

1 On a few occasions I noticed myself where I
2 knew that department completely might have been overloaded
3 at one point and I found Mr. Squicciarini walking in
4 the hallways.

5 Also, after Mr. Neilson appointed Mr. Lockhart as
6 the supervisor Mr. Squicciarini came to me and says to
7 me what can I do? Meaning as far as Mr. Neilson picking
8 Mr. Lockhart as supervisor.

9 My reply to him was that Mr. Neilson had complete
10 control of that department and I told him the reason
11 why he had picked Mr. Lockhart and he says, "Well, that is
12 not what you promised."

13 I made no promises to him as far as being a
14 supervisor.

15 Q During that conversation you just testified to I
16 believe you said Mr. Squicciarini said to you that you
17 had made a promise?

18 A Yes.

19 Q Do you remember your exact response to him, Mr.
20 Napolitano?

21 A I told him that I made no commitments to him at all
22 as far as being a supervisor, and he insisted that I
23 made some kind of commitment to him the day he was rehired
24 and I kept on saying to him I made no commitment.

25 I said to him that only the future would tell and that

1 Mr. Neilson had picked Mr. Lockhart over him because
2 he felt he was more qualified than Mr. Squicciarini.

3 Q After Mr. Lockhart was made supervisor of the
4 maintenance department at Colonie Hill did Mr.
5 Squicciarini continue to work for Colonie Hill?

6 A Yes, he did.

7 Q Did he work under Mr. Lockhart as his supervisor?

8 A Yes, he did.

9 Q Did you observe Mr. Squicciarini in the performance
10 of his work after Mr. Lockhart had been made supervisor?

11 A Not really, no, no. I was only acting on what Mr.
12 Neilson was telling me at that point where he complained
13 that there was -- the work was not being completely done
14 by Mr. Squicciarini.

15 Q Did you have more than one such conversation with
16 Mr. Neilson after --

17 A Yes.

18 Q (Continuing) Mr. Lockhart was --

19 A After April.

20 Q (Continuing) Listen to the question, after Mr.
21 Lockhart was made supervisor did you have more than one
22 such conversation with Mr. Neilson?

23 A Yes.

24 Q Do you recollect how many conversations you had?

25 A Many, many. The reason is that because prior to

1 April 16th, the day I had made up a check for Mr.
2 Squicciarini to be fired, Mr. Neilson had told me why
3 he was being fired at that point.

4 After that conversation there was another
5 conversation after he rehired him the same day, stating
6 he was going to give him another chance to fulfill what
7 he had promised Mr. Neilson and that was to speed up
8 work and not complain about him not being the supervisor
9 to Mr. Neilson.

10 After that conversation I started to watch Mr.
11 Squicciarini a little bit closer because Mr. Neilson had
12 told me he didn't know which way Mr. Squicciarini was
13 going to go, whether he was going to perform better or
14 go back to the same lax way, so I actually observed him
15 once after that conversation with Mr. Neilson.

16 It was a day where he had said that he had given
17 out certain jobs, and I found Mr. Squicciarini walking
18 in the hallways on the bottom level near I think it was
19 what they call the workshop, back and forth down the
20 corridor, walking towards the Wonder Fall.

21 Q Mr. Napolitano, did there come a time when Mr.
22 Squicciarini's pay was reduced?

23 A Yes.

24 Q Could you tell us the circumstances surrounding
25 the reduction of Mr. Squicciarini's pay?

1 A Well, the whole situation began in March where
2 again we were having some kind of financial difficulty
3 and we were trying to find out what the problems we
4 could actually do something in by cutting pay.

5 We found out we had a lot of dead areas, meaning
6 security which is a department where we receive no income
7 back, the maintenance was another area where we receive
8 no income back.

9 We looked closely into those departments and we
10 found we would have to start cutting salaries.

11 The first cut we made was Mr. Lockhart's salary.
12 He was making originally 360 if I am correct, and I think
13 the payroll records will verify it, and he was actually
14 reduced to \$300 a week, per week.

15 Q Was his the first pay to be cut in the maintenance
16 department?

17 A Yes, it was the first one.

18 The second pays that were actually cut were Mr.
19 Eckart and Mr. Staats and they were lowered to an
20 hourly rate.

21 I think a week or a week and a half, approximately
22 two weeks later I think Mr. Squicciarini and Mr. Cabanas'
23 pay were reduced to actually the same amount as Mr. Eckart
24 and Mr. Staats, which was 4.10 an hour and that all took
25 place in the month of April.

1 Q Mr. Napolitano, were there any other people in
2 the maintenance department at this time other than these
3 five gentlemen?

4 A No.

5 Q So the pay of the entire maintenance department was
6 cut at that time?

7 A Right, and there were actually other people laid off
8 at the same period of time.

9 In fact, between March and June 11th I think we
10 actually laid off approximately I would say 135 people,
11 all building up to this financial problem which we had
12 during that period of time.

13 Q Mr. Napolitano, you just testified to certain pay
14 reductions for Messrs. Lockhart, Staats, Eckart,
15 Squicciarini and Cabanas.

16 Your testimony, Mr. Napolitano, did it come from
17 your examination of the payroll records of Colonie Hill?

18 A Yes, it did.

19 Q For the period of the week ending March 22, 1973
20 and continuing through the week ending May 6, 1973?

21 A Yes, it did.

22 MR. DONELAN: Would you please mark this for
23 identification.

24 JUDGE BOTT: Well, just to be helpful, don't mark it.
25 You are not proposing to introduce those original records?

1 MR. DONELAN: I may well have to.

2 JUDGE BOTT: Why don't you indicate that they are
3 in the hearing room in your possession for inspection?

4 If it becomes a question, he testified from an
5 exmaination of the records, he has testified as he did.

6 You are saying you want to mark the original payroll
7 records and they are here for examination for anyone who
8 wants to examine them.

9 If you get them in you will have to withdraw them
10 and they are original records.

11 MR. DONELAN: I would like to indicate to the Court
12 that I have in my possession at this time the original
13 payroll records of Colonie Hill for the period for the
14 week ending March 22, 1973 and continuing through the
15 period for the week ending July 1, 1973, from which the
16 witness has indicated that he has refreshed his
17 recollection for his testimony here today, and these
18 records are made available for inspection by the General
19 Counsel at any time he deems necessary.

20 JUDGE BOTT: All right, the record will show your
21 statement.

22 Q (By Mr. Donelan) Mr. Napolitano, you have
23 testified that during the period, I believe, April, May
24 and June there were a great number of people who were let
25 go at Colonie Hill?

1 A Right.

2 Q At my request, Mr. Napolitano, from the payroll
3 records of Colonie Hill, did you prepare a list of
4 schedules of names of the employees of Colonie Hill and
5 days on which their employment with Colonie Hill was
6 terminated?

7 A Yes, I did.

8 MR. DONELAN: I would like to have this document
9 marked for identification, please.

10 (Document marked Respondent's
11 Exhibit 2 for identification,
of this date)

12 Q Mr. Napolitano, marked as Respondent's Exhibit 2
13 for identification is a document consisting of seven
14 pages. Would you please tell us what that document is?

15 A This is an actual list of which I made up of the
16 actual people that were let go during the period of
17 April, May and June.

18 Q Of 1973?

19 A Of 1973.

20 Q This list, was it from that list, Mr. Napolitano,
21 taken from the payroll records which we have made
22 available here in court today?

23 A Yes, they were.

24 Q Mr. Napolitano, could you tell us how many employees
25 were let go by Colonie Hill during the period April, May

1 June and July of 1973?

2 A The exact number? The approximate number would be
3 between 150 and 160.

4 MR. DONELAN: I would like to offer the next exhibit
5 in evidence that the witness has just testified to.

6 JUDGE BOTT: Any objection?

7 MR. FISH: Let me see it.

8 Voir dire, your Honor.

9 JUDGE BOTT: Yes.

10 VOIR DIRE EXAMINATION

11 Q (By Mr. Fish) Mr. Napolitano, what types of
12 employees are included on this list?

13 A All types. Dishwashers, porters, cleaning men,
14 maintenance men.

15 Q Does it include waitresses and waiters as well?

16 A Yes, it does, also captains, waitresses and waiters
17 in restaurants, the bars.

18 Q There is no indication on this list as to whether
19 any of these employees were regularly employed or not;
20 is that correct?

21 A No, there is not.

22 Q And are some of the employees on this list waiters
23 and waitresses who work on a part-time basis, call up
24 basis, do you know?

25 A Yes, there probably would be some, but most of these

1 people are what they call it a crew which was the
2 main body of people that worked on the catering end.

3 If they worked three or four days I don't know if
4 you would consider them part time.

5 JUDGE BOTT: Whatever word is used to describe --

6 THE WITNESS: They were all terminated. Whatever
7 word he would use to describe.

8 They were all terminated.

9 JUDGE BOTT: Whatever word he has used to describe,
10 the time they were employed they were regular part time
11 or full time employees.

12 THE WITNESS: That is correct.

13 JUDGE BOTT: That is a term of art.

14 Q They all had a regular assignment?

15 A Yes.

16 Q They were all due to come in two days a week or three
17 days a week or what?

18 Yes. Some could have come in two days a week. Some
19 of those could actually come in on a Saturday and Sunday,
20 and that is when they were called Saturday and Sunday,
21 some were only called maybe Monday and Tuesday but they
22 were actually the main body of the catering end which
23 we had.

24 Crew A I think they call it or Crew B. Whatever they
25 called it. The people they were calling up, plus there

1 were dishwashers and various other people on that list.

2 Q I am still not quite informed. You have a regular
3 crew for the waiters and waitresses you said, like
4 Crew A?

5 A By a regular crew, let us say there are 50 to 60
6 people which they considered their regular crew.

7 Then they considered a Crew B which was a crew that
8 any time they had to function where they needed more than
9 60 waiters, they would call this B group.

10 They consisted of maybe another 40, but for an
11 example we could have five, seven, eight functions going
12 on one particular night where every one of those waiters
13 were used.

14 Q I mean is there another group, a C group of extras
15 so to speak or people who they just call whenever they
16 need them for any particular job?

17 A Basically no, no.

18 Q Basically not?

19 A Well, a C group? Whatever they called --

20 Q Whatever you want to call them.

21 A I mentioned there was some kind of other group because
22 when we went over to an affair we needed 200 or 300
23 waiters you would have to have another group.

24 Q And there is a list of these employees?

25 A There was a list of every group, supposedly, which were

1 called in.

2 Q So this third group that I am asking you about,
3 whether you call it C group or X group or whatever you
4 want to call it --

5 A Whatever you call it.

6 Q There is this type of employee who also doesn't
7 have a regular position and they just call whenever they
8 need them, is that correct? There is that type of --

9 A If you don't consider that a regular, yes.

10 Q Is how I define it accurate as to their job status,
11 they are called whenever they are needed, they don't have
12 a regular position in terms of a regular one day a week
13 or two days a week or three days a week?

14 They are on some sort of a list and if the company
15 needs 20 extra people for a particular affair they will
16 look on this list and say okay, we have these people,
17 we will call them up and they will come in. Is this how
18 it works with respect to these people?

19 MR. DONELAN: Are you referring to the people on this
20 list?

21 MR. FISH: I haven't gotten to that. I'm talking
22 about people at the complex.

23 Q You have such people?

24 A Yes.

25 Q My next question, Mr. Napolitano, were any of those

1 types of people on this list?

2 A The main body of the list was Group A and B or
3 1 and 2 or the first two groups which we have said.

4 Q I'm sorry?

5 A The ones that were considered regular part timers.

6 Q Are on this list?

7 A Right.

8 Q So my question is this third group of employees,
9 are they on this list or not?

10 A I just said no.

11 Q None of them are?

12 A Not to my knowledge.

13 Q In other words, they are not in the payroll records?

14 A Sure, there are plenty of them in the payroll records.

15 You can go through these payroll records to find them
16 but you wouldn't find them on this list.

17 I would say 90 percent of those employees are the
18 actual regular part time employees.

19 Q I'm sorry, 90 percent?

20 A On that list.

21 Q 90 percent so --

22 A I'm giving myself a margin of possibly an error.
23 You know, I compiled the list.

24 Q How did you decide who should be on this list?

25 A There is a complete area of the payroll records.

1 Q Mr. Napolitano, I'm asking did you prepare this
2 list yourself?

3 A Yes, I prepared the list.

4 Q Did you, did you instruct someone to go through the
5 list?

6 A No.

7 Q You did it all by yourself?

8 A Yes.

9 Q So you opened this book and you checked certain names
10 and you decided whether they were laid off or not.

11 Is there any place in this payroll record indicating
12 layoff?

13 A Let me look at the book again to make sure it is the
14 right one I'm talking about.

15 What I actually did was go through this list, okay?

16 Q Yes.

17 A For example, we have another master book which would
18 be easier, we show the names that were actually terminated.
19 Actually gives the termination date. This is not the same
20 book.

21 This is the original book I took the names off when
22 I went department by department.

23 JUDGE BOTT: How could you tell from this book that
24 they were laid off?

25 THE WITNESS: I didn't. What I did is by name. See,

1 this isn't by actually who worked these weeks. I
2 went through all this, find the names that worked and
3 I would coincide it with another book.

4 Q What book was that?

5 A This is the master files.

6 Q Do you have that book?

7 A No, I don't, no, I don't. I actually forgot that book.

8 MR. FISH: Your Honor, I will object to the
9 introduction of this document unless that book is produced.

10 JUDGE BOTT: Well, maybe you can work out some
11 agreement.

12 Does General Counsel have any reason to disagree that
13 employment was not cut during this period?

14 MR. FISH: No, there is no question that employment
15 was cut, but the extent of it I am unclear on and I'm
16 very unclear on what type of employees are included on this
17 list.

18 THE WITNESS: Okay, maybe I could solve it. Maybe I
19 could help.

20 JUDGE BOTT: Maybe you can. That is what I was leading
21 up to.

22 Could you count by looking --

23 THE WITNESS: Yes, I can. I can prove it to him right
24 now.

25 Richard Clark was terminated 6/15. This is the week

1 ending the 17th which he would be on. Let us find
2 his name first, okay?

3 He would be in C. Okay, here he is. We agree he got
4 paid the end of June 17th?

5 Q Yes, I concede there is a Richard Clark that was on
6 the payroll as of June 17th.

7 A Okay.

8 Did we agree he is not there after June 17?
9 Well, he is not there.

10 Q On the week of June 24th?

11 A He was terminated June 15th which was the week ending,
12 which would have been June 17th.

13 Most of these names we could do the same things so
14 actually you can tell by this book, by the dates.

15 JUDGE BOTT: You are saying that giving yourself a
16 break or an edge on percentages that approximately 90
17 percent of those people you are willing to say were people
18 who worked regularly part time?

19 THE WITNESS: Yes, I could actually by some of these
20 names.

21 JUDGE BOTT: Let me ask this question for enlightenment.

22 Laying off a part time employee may not involve even
23 notification, it may just involve not calling, but I get
24 the implication from your testimony that these were
25 people who were regularly scheduled?

1 THE WITNESS: Yes, they were regular part timers,
2 where we actually notified them that they were no longer
3 going to be working at the Colonie Hill.

4 JUDGE BOTT: For some time?

5 THE WITNESS: For some time, correct.

6 JUDGE BOTT: How did you notify them?

7 THE WITNESS: We called up a few, and a lot of them
8 had paychecks which they weren't collected. They came in
9 and we notified them, but basically most of them were
10 regular employees. Actually they were regular, they were
11 working three, four times a week.

12 This whole complete list that I am looking right now
13 is broken up between the security, golf course, bars,
14 dishwashers, this list.

15 JUDGE BOTT: Well, security would be a regular job?

16 THE WITNESS: Which was laid off.

17 JUDGE BOTT: Wouldn't be part time necessarily?

18 THE WITNESS: No.

19 JUDGE BOTT: You laid off your whole security
20 department?

21 THE WITNESS: No, we laid off certain individuals
22 out of that security department. We had to cut back.

23 JUDGE BOTT: How many security men did you lay off?
24 They are on the list?

25 THE WITNESS: They are on the list.

1 JUDGE BOTT: You could pick them out?

2 THE WITNESS: Yes, I see a few.

3 JUDGE BOTT: You think a security man you would
4 recognize?

5 THE WITNESS: Yes. The reason why we might have cut --

6 JUDGE BOTT: We don't want to make a detailed --

7 MR. FISH: I don't either but I am still --

8 JUDGE BOTT: I think he is showing that he has personal
9 knowledge about much of this. It is a matter of degree here
10 and I don't think this case is going to turn on whether
11 the company laid off 50 people or a hundred people.

12 They had a financial problem. As long as it was
13 substantial it would bear on good faith. If it were more
14 substantial and what I am saying is and what I have said,
15 I would like to get over this hassle by getting a little
16 more of the facts.

17 How many security people did you lay off?

18 THE WITNESS: Offhand could be about six, seven.

19 JUDGE BOTT: Is there another classification that is
20 fairly permanent like you mentioned maids? Did you mention
21 maids?

22 THE WITNESS: No, dishwashers. Here's a few bartenders.

23 JUDGE BOTT: How many?

24 THE WITNESS: Well, on this particular page there's
25 only one that I know of. I will have to go through each list.

1 JUDGE BOTT: Would you say there were more than two?

2 THE WITNESS: So far there are two but I already
3 passed four secretaries and six security men.

4 JUDGE BOTT: Four what?

5 THE WITNESS: Four secretaries were laid off.

6 JUDGE BOTT: What kind of secretaries?

7 THE WITNESS: Clerical people.

8 JUDGE BOTT: Are they part time or regular?

9 THE WITNESS: They would be regular.

10 JUDGE BOTT: All right. You may continue your
11 examination, General Counsel, but I think there is a
12 foundation for this document. It may not be the most
13 perfect, it may not prove every name on there is a regular
14 part timer, but my finding on the basis of his testimony
15 would be that a substantial number of them are.

16 As I say, I'm not going to decide the case on the
17 basis of whether the company had to lay off a hundred
18 people or had to lay off 50.

19 I think you have your job so you have nothing to be
20 concerned about. I will admit Respondent's Exhibit 2.

21 (Respondent's Exhibit 2 for
22 identification received in
evidence, of this date)

23 JUDGE BOTT: This bears on not the discharge, I guess,
24 this testimony is on the economics. And I am trying to
25 refresh my memory as to the reduction in the pay.

1 MR. DONELAN: Correct, your Honor.

2 JUDGE BOTT: Proceed.

3 Q (By Mr. Donelan) Mr. Napolitano, I believe that
4 in connection with the voir dire that was just had by
5 general counsel in respect to Respondent's Exhibit 2 you
6 indicated that this list indicates a number of regular
7 part-time employees; is that correct?

8 A Yes.

9 Q Does it also indicate full-time regular employees?

10 A Yes.

11 Q Such as secretaries and others who work on a five-day
12 week on a continuous basis?

13 A Yes, it does.

14 Q And all the people that are indicated on this list
15 were laid off at or about the date indicated next to
16 their name?

17 A Yes.

18 Q Was Colonie Hill experiencing some business problems
19 in the spring, March and April and May and June of 1973?

20 A Yes, we were.

21 Q Could you tell us, Mr. Napolitano, generally or
22 specifically, if you know, the problems that Colonie Hill
23 was experiencing at that time?

24 A Well, one thing was the lack of business versus our
25 payroll.

1 In other words, our income versus what we had to
2 pay out.

3 Q Was business bad at that time?

4 A Business was actually bad. March, like I stated
5 before, March, April, May and June are not very good
6 months. Maybe towards the tail end of June we might pick
7 up a little and go into July because we pick up proms,
8 but overall business as far as banquets it was not.
9 Very bad.

10 JUDGE BOTT: When you mention banquets.

11 THE WITNESS: Catering.

12 JUDGE BOTT: Is this catering outside or two parties
13 or just at the complex? I mean, what do you mean by
14 catering?

15 THE WITNESS: Oh, by catering we take an outside
16 function by which we cater and we get a certain amount of
17 money for that particular affair.

18 JUDGE BOTT: These functions are not held at your
19 complex, they could be held any place?

20 THE WITNESS: No, they are all held at our complex.

21 JUDGE BOTT: All your catering is done at your
22 complex?

23 THE WITNESS: Yes.

24 JUDGE BOTT: Not like certain organizations who cater
25 to a party at a house or a hotel?

1 : THE WITNESS: In all the catering it is held at
2 the complex.

3 Q Mr. Napolitano, perhaps you might explain to the
4 judge the size of your catering facilities at Colonie
5 Hill.

6 A Well, we have a banquet hall which is 100 yards long
7 which is the entire length of a football field, that would
8 be the easiest way to explain it, which cuts up into
9 certain rooms which we can vary the rooms into a thousand
10 or two thousand or three thousand or four thousand or
11 five thousand or down to the smallest party of a hundred,
12 two hundred or three hundred.

13 If we ever run into a problem with the upstairs
14 banquet facilities or catering facilities we have
15 approximately three rooms downstairs which holds a hundred
16 and fifty, two fifty and three fifty, basically, and that
17 is the actual size of the catering.

18 Q Mr. Napolitano, getting back to after Mr. Lockhart
19 became supervisor of the maintenance department at
20 Colonie Hill, I believe you testified that you saw Mr.
21 Squicciarini in one incident where he was walking in the
22 halls in one particular area when you said there was work
23 to be done?

24 A Right. That was after the conversation where Mr.
25 Neilson and myself had a conversation where Mr.

1 Squicciarini was supposed to be fired on -- I forget
2 the date, I think it was the 15th or 16th of April, where
3 after rehiring that same day he told me that if I could
4 possibly keep an eye on him which I tried to do, but I
5 had too much work and I only saw him once, to be truthful.

6 Q After April 16th and this conversation that you had
7 with Mr. Neilson, did you have any other discussions with
8 Mr. Neilson in May or June concerning Mr. Squicciarini's
9 work?

10 A Yes, I did. Mr. Neilson came to me again and told
11 me that again he was not happy with Squicciarini's work.
12 He felt he was not going all out in his job that he was
13 supposedly doing, and he found a great slowdown in
14 everything -- actually everything he was trying to
15 accomplish he was completely slowed down and he was very
16 unsatisfied with his work.

17 At that point he told me to make up a check. I made
18 up a check after talking to him, to Mr. Neilson and he
19 handed him the check and I imagine he handed it to Mr.
20 Lockhart to let Mr. Squicciarini go.

21 Q Mr. Neilson still with Colonie Hill, Mr. Napolitano?

22 A No, he is not.

23 Q Tell us when he left.

24 A I would assume it was May or June of '73. I think it
25 was June of '73, and he left to go out of state.

1 Q Do you know if he moved out of New York?

2 A He did. He went out of state.

3 Q Mr. Napolitano, did you ever have any discussions
4 at any time with Mr. Squicciarini concerning his
5 membership in any labor union?

6 A No, I didn't.

7 Q Did you ever have any discussions at any time with
8 Mr. Staats concerning his membership in any labor union?

9 A No, I didn't, no.

10 Q Did you ever have any discussion at any time with
11 Mr. Eckart concerning his membership in any labor union?

12 A No.

13 Q Did you ever talk about Local 30 with any one of these
14 three gentlemen?

15 A No, I didn't.

16 Q Did you ever talk about Local 775 with any of these
17 gentlemen?

18 A No.

19 Q Did you ever discuss Local 100 with any of these
20 gentlemen?

21 A No.

22 Q Did you ever urge or solicit Mr. Squicciarini or
23 Mr. Staats or Mr. Eckart to sign cards designating 100
24 as their collective bargaining agent?

25 A No, I didn't.

1 Q Did you ever ask them or tell them to join
2 Local 100 or any other union?

3 A No.

4 Q Did they ever tell you they wanted to be represented
5 by Local 30 or Local 775?

6 A No.

7 Q Did they ever indicate to you they would not join
8 Local 100?

9 A No, never indicated to me.

10 MR. DONELAN: I have no further questions.

11 JUDGE BOTT: We will take a short recess.

12 (Short recess taken)

13 JUDGE BOTT: On the record.

14 CROSS EXAMINATION

15 Q (By Mr. Fish) You testified that after the
16 certification of Local 100 that the company and the union
17 began to apply, I believe as your counsel phrased it,
18 substantive terms of a contract.

19 A Correct.

20 Q How was that decided. Did you have a discussion about
21 that with the union or did the company decide among
22 themselves to do that, or what?

23 A We actually took it as a customary -- I mean --

24 Q I am sorry?

25 A Customarily we did it because we assumed that after

1 the certification that that contract would still be
2 enforced, would be legal.

3 Q In total?

4 A Total, until a new one was signed. That was decided
5 by myself and Mr. Russo in a conversation.

6 Q You and Mr. Russo?

7 A Yes.

8 Q You didn't discuss it with the union at all?

9 A No, they didn't tell us a thing what to do either,
10 to be truthful at that point.

11 Q During the negotiations with the union it never came
12 up, the problem of whether you were or were not applying
13 the terms of this contract which had been set aside?

14 A I didn't know because I was not in negotiations.

15 Q So you never had any discussion with anyone from
16 the union?

17 A No.

18 Q About whether this contract was applied or not?

19 A No.

20 Q When you say all the terms of the provisions you
21 include the senior security clause in your discussion;
22 is that correct?

23 A Union security clause?

24 Q You realize there is a clause in this contract which
25 requires all employees to be members of the union in order

1 to work at Colonie Hill after 30 days?

2 A Right.

3 Q Was that clause continuously enforced?

4 A Continuously enforced?

5 Q Well, after December 26.

6 A Right.

7 Q It was?

8 A To the best of my knowledge they tried to enforce it.

9 Q Who tried?

10 A I would say Mr. Trockel.

11 Q Mr. Trockel went to employees and told them they had
12 to join the union?

13 A Only after 30 days.

14 Q And if they didn't after 30 days they would be
15 terminated?

16 A Yes.

17 Q Based on your instructions?

18 A I asked him to.

19 Q Do you know if anybody was ever fired for failing
20 to join the union?

21 A I remember -- let's see -- offhand, no.

22 Q There is also a clause in here titled do checkoff.
23 Do you know what that is, Mr. Napolitano?

24 A Where we would deduct the dues I imagine from the
25 employees' salaries.

1 Q Correct.

2 A And resubmit it back to the union.

3 Q Correct.

4 A Have we done it?

5 Q The contract calls for that. Was that done as well?

6 A That was collected by Mr. Trockel.

7 Q My question to you is were dues checked off from
8 employees' salaries which is what the checkoff clause
9 calls for?

10 A By Mr. Trockel, yes.

11 Q You didn't answer my question.

12 A He had.

13 Q You said Mr. Trockel went around and collected the dues?

14 A That's right.

15 Q Or collected initiation fees, but that is not my
16 question.

17 My question was whether dues were checked off from
18 employees' salaries which is what the contract calls for.

19 I will read to you No. 3:

20 "The employer shall upon properly executed dues
21 deduction authorization clause deduct initiation fees and
22 dues as set forth in the constitution and by-laws of the
23 union which shall be forwarded to the employer. This
24 deduction of dues shall only apply to permanent full time
25 and part time employees.

1 : "The deductions shall be made on the first day
2 of the month and forwarded to the secretary-treasurer
3 of the union within ten days".

4 That is what the clause says.

5 A Correct.

6 Q Was that applied?

7 A My reply to you again would be Mr. Trockel took the
8 initiation fee plus deduction and dues.

9 Q I don't know what you mean "he took". What did he do?

10 A He would deduct it in our payroll.

11 Q It was deducted from the employees' salaries?

12 A Right, correct, by list of Mr. Trockel which he
13 prepared and submitted.

14 JUDGE BOTT: You say this was after December 26?

15 THE WITNESS: After December 26.

16 JUDGE BOTT: During that period before the election
17 it was not done?

18 THE WITNESS: No, not to my knowledge.

19 Q In other words, Mr. Trockel submitted a list to
20 Payroll and dues were deducted?

21 A Right, the deductions, right, and he had a complete
22 list where people -- the list I am talking about, where
23 he would have initiation fee, let us say 37.50, where a
24 certain amount had to be deducted, 5.50 or by the rate of
25 their salary.

1 ! They based it out on that basis. I think it was
2 a certain percentage. If you weren't in the union --

3 Q What?

4 A If you weren't a member, from what I gather you
5 wouldn't be deducted anything.

6 Q Do you have any idea what percentage of the employees
7 had their dues deducted?

8 A I would say he tried to give mostly every employee
9 that was already a union member, he tried to actually put
10 on the list to be deducted.

11 Q Only those employees who were already union members?

12 A Well, the other ones he couldn't deduct.

13 Q Why not?

14 A I gather he needed authorization cards signed by the
15 employee to be able to deduct that particular money from
16 the employee.

17 Q Did he request employees to sign such authorization
18 cards?

19 A From what I gather, yes.

20 Q Did the majority of the employees subsequently
21 execute these cards and have their dues deducted?

22 A Well, let's say this, when he prepared the list and
23 submitted it to me he had claimed that he had all cards
24 signed, membership to the union, plus the authorization
25 to deduct the dues.

1 Q By the way, would these payroll records indicate
2 the deductions?

3 A If it was that time of the month they would, yes.
4 They should be in there.

5 Q Could you please check it and see if it indicates
6 the deductions?

7 A These would not be in these records.

8 Q They would not be?

9 A Well, maybe.

10 JUDGE BOTT: That is April. Aren't those April, May
11 and June months?

12 THE WITNESS: Yes. Maybe I could find them.

13 Banquet would be a rate they were paying, so it would
14 be very hard to pick up the deduction.

15 Here, if I could show you, it would be easier and
16 as an example, see, the set rate that they were paying.

17 In other words, they accumulate by party and say we are
18 getting \$24 for six parties, they would get \$150.

19 Q Were any dues deducted from the salaries of waiters
20 and waitresses?

21 A Yes, they were but I wouldn't know by looking at
22 this. I would have to go back to the sheet where he made
23 the entries. There is another book.

24 Q There is another book?

25 A Yes. We could actually see the deductions.

1 : Unless I could find an hourly employee where it
2 would show.

3 Q You don't have any listing I see in the payroll
4 records for union dues?

5 A No, we took it under miscellaneous.

6 Q It would be under miscellaneous?

7 A Yes.

8 Q See if you can find some.

9 MR. DONEGAN: Off the record for a minute.

10 JUDGE BOTT: off the record.

11 (Discussion off the record)

12 JUDGE BOTT: On the record.

13 Q (By Mr. Fish) We also have a provision of a
14 contract concerning holidays, I believe; is that correct?

15 A That is correct.

16 Q Do you know what the provision is?

17 A An employee would have to be paid, I think the
18 contract says double time if I am not mistaken on -- if
19 they worked on a holiday.

20 It is either time and a half or double time. I don't
21 know which one it is.

22 Q I refer you to I believe it is No. 14, where it
23 states, "All full time employees shall be guaranteed
24 eight holidays in the calendar year"; is that correct?

25 A You are reading it.

1 Q That is what it says. Does that refresh your
2 recollection?

3 A I agree.

4 Q "The parties shall meet and mutually agree upon the
5 holidays in this agreement and shall conspicuously post
6 these holidays".

7 A Correct.

8 Q Was this aspect of the contract applied?

9 A As far as posting them?

10 Q Both points, the employee shall be guaranteed eight
11 holidays in the calendar year and the parties shall
12 meet and agree upon and shall post them.

13 A No, I don't think so.

14 Q It was not done?

15 A No.

16 JUDGE BOTT: You say it wasn't or you don't know?

17 THE WITNESS: Well, for recollection I would say no.

18 Q Are there eight guaranteed holidays for the
19 employees of Colonie Hill?

20 A According to that contract there should have been.

21 Q I am asking whether it was.

22 A If you read holidays I will let you know.

23 Q If I read holidays?

24 A Yes, I don't know the holidays offhand.

25 Q Well, there aren't any holidays.

1 A How am I supposed to know holidays?

2 Q The contract says they shall be guaranteed eight
3 holidays and the parties shall meet and agree. Are
4 there any holidays at Colonie Hill? Let us start with that.

5 A I will answer your question, I don't know the
6 holidays, and without knowing the holidays I can't answer
7 your question.

8 One of the holidays could have been July 4th; is
9 that correct?

10 Q All right.

11 A July 4th, it is a holiday, right? I assume.

12 If that was one of the holidays. One of the holidays
13 could have been New Year's Eve, I don't know. I don't
14 know the holidays offhand, to be truthful. I don't know.

15 Q My question is there is no policy at Colonie Hill
16 and isn't it a fact that employees are guaranteed pay
17 for holidays, is that correct?

18 A Employees guaranteed pay, no, there is no policy.

19 Q Now, it also says any employee required to work on
20 a holiday shall receive time and a half in addition to
21 the regular holiday pay.

22 The employer shall give advance notice to the
23 employees as to whether they are required to work on a
24 holiday. The employee called to work on a holiday shall
25 be guaranteed at least four hours' pay.

1 Q Was this provision enforced?

2 A Whether they were paid time and a half?

3 Q Yes.

4 A July 4th they were.

5 Q I'm talking about all the holidays.

6 A I don't know all the holidays. I don't particularly,
7 because I was there, July 4th.

8 Q Let us talk about that.

9 JUDGE BOTT: Which contract are you reading from?

10 THE WITNESS: Let us assume July 4th. I am pretty
11 sure they were paid. I am almost positive.

12 MR. FISH: This is the old contract, March of '72,
13 the contract allegedly in effect.

14 THE WITNESS: You are talking about July of '72 or
15 July of '73?

16 Q No, July of '73, the old contract.

17 A Oh, oh.

18 Q Let us take some holidays. Memorial Day.

19 A For recollection, I have no idea.

20 Q Do you know? You don't know if employees were paid
21 time and a half?

22 A I don't know.

23 Q On Washington's Birthday or Christmas or Thanksgiving?

24 A In November and December you can forget about.

25 Q Christmas is a possibility?

1 A I don't know. I don't really know, honestly.

2 JUDGE BOTT: Are you saying you don't know whether
3 that provision he read about the parties shall get together
4 and agree on the specific holidays, you are saying as
5 far as you are concerned you don't know whether that was
6 actually enforced or not?

7 THE WITNESS: I don't actually know the holidays
8 that were assigned.

9 JUDGE BOTT: Well, are you telling me, I just want to
10 understand, that you don't know as the personnel director
11 whether pursuant to that old contract the company and the
12 union got together and agreed on any holidays?

13 THE WITNESS: That is correct.

14 JUDGE BOTT: You don't know?

15 THE WITNESS: I wasn't involved in the picking of
16 those holidays.

17 JUDGE BOTT: All right.

18 THE WITNESS: When they actually met to actually say.

19 JUDGE BOTT: You don't know what days they agreed on
20 and you don't know whether they agreed on anything as
21 far as your testimony is concerned?

22 THE WITNESS: Correct.

23 JUDGE BOTT: You may assume maybe they agreed on
24 Christmas or July 4th but you don't know whether they
25 agreed on the employee's birthday.

1 THE WITNESS: That is what I mean. I don't know it
2 actually.

3 JUDGE BOTT: Or whether they agreed on anything.

4 THE WITNESS: No. I will have to rephrase that,
5 Actually I know they agreed on certain holidays but I
6 don't know the exact holidays because of the confusion
7 between November and December.

8 November supposedly was when I think 164 made an
9 alleged complaint against Local 100 and that is where
10 the actual confusion started.

11 If he asks me if Christmas was a paid holiday or
12 if I paid that particular Christmas of December, '72,
13 my immediate answer would have been I think so, but I'm
14 not sure.

15 I wouldn't swear to it right now they were paid.

16 Q I am confused again. You say you know that the
17 union and the company got together and agreed on some
18 holidays. How do you know that?

19 A I says I'm assuming there were holidays picked.

20 Q But you don't know?

21 A You asked me a question, if Christmas was a holiday
22 and I said if I had to pick a holiday I would assume
23 that would be one.

24 Q But my question is you don't know of your own
25 knowledge whether or not the union and anyone else from

1 the company met to discuss holidays at all, is
2 that correct?

3 A That would be correct.

4 Q And in fact the contract calls for the holidays to
5 be conspicuously posted. You have never seen such
6 holidays conspicuously posted at Colonie Hill; is that
7 not correct?

8 A That is correct.

9 Q How about the clause with respect to vacations?
10 It says all full time employees shall receive vacation
11 pay each year as follows:

12 One year of service, one week. Three years of
13 service, two weeks.

14 A Correct.

15 Q Was this clause in the contract applied between
16 December of 1972 and July of 1973?

17 A If they were here one year it was.

18 Q It was?

19 A Correct, and still has at this point, it still has.

20 Q Also a clause with respect to union welfare payments

21 A Mr. Russo made those payments.

22 Q Payments were made?

23 A Yes.

24 Q As of when you started making them again?

25 A I know Mr. Russo made payments. I don't know the

1 exact amounts or what he actually paid to the union.

2 Q I'm not interested in the amounts, but I am
3 interested in when the payments were made.

4 A Offhand I don't remember the actual date, I don't
5 know.

6 Q But it was some time after the certification?

7 A Oh, definitely, and it was before, I imagine, the
8 months up to prior to November.

9 Q And also it talks about some wages, refers to a
10 schedule of this agreement which, by the way, Mr.
11 Donelan, is not attached to this contract.

12 Do you happen to have that?

13 MR. DONELAN: I don't have a copy attached to mine
14 either.

15 Q In any event, were the wages as set forth in this
16 contract paid to the employees, as set forth in
17 Schedule A?

18 A You are talking about after the certification?

19 Q Yes.

20 A Yes, basically they were, yes. Waiters, waitresses,
21 yes, dishwashers, yes.

22 Q Was there a change in their wage rate or was it
23 just continued?

24 A Basically continued.

25 Q You testified about this list you prepared again of

1 employees terminated. That is how it is indicated on
2 this list, termination date and you have various dates
3 on there.

4 A Correct.

5 Q This list does not only include people who were
6 "laid off": is that not correct? There are people on
7 this list who were fired, discharged for cause?

8 A Right.

9 Q Could you give an estimate of how many employees on
10 this list were discharged for cause?

11 A Cause of which I know, 10 percent.

12 Q 10 percent?

13 A Yes.

14 Q And some 90 percent of the employees on this list
15 were laid off for economic reasons; is that your testimony?

16 A One way or another, yes.

17 Q What do you mean one way or another?

18 A You asked me a question, if someone considered that
19 one of the supervisors considered he didn't need another
20 man to function, he would say let him go. I don't know
21 if you consider that being fired.

22 Q He didn't need?

23 A Yes.

24 Q You don't consider this for economic reasons if
25 a supervisor said "I don't need this guy any more"?

1 A Basically because we originally told them, in
2 other words, if we had 20 dishwashers working in the
3 banquet department and we felt we only needed six, and
4 we wanted to give him a limit of six where we wanted to
5 see if he could function with six, we let go 14.

6 That would be considered economic, wouldn't it?

7 Q Well, so I just understand --

8 A So my answer, I would say yes.

9 JUDGE BOTT: I don't understand your answer.

10 THE WITNESS: He asked me a question, if 90 percent
11 of the list was let go for economics. I would say yes.

12 JUDGE BOTT: What do you mean by cause?

13 THE WITNESS: He asked me the question cause.

14 JUDGE BOTT: What do you mean?

15 THE WITNESS: I took it as incidences which I know of
16 that are on that list.

17 JUDGE BOTT: Like a man say drinking on the job?

18 THE WITNESS: Correct.

19 JUDGE BOTT: That is cause? Misconduct?

20 THE WITNESS: Misconduct.

21 Q And Mr. Squicciarini's discharge would be for cause;
22 is that correct?

23 A Excuse me?

24 Q Mr. Squicciarini's discharge you would consider to be
25 for cause; is that right?

1 A I would say so.

2 Q But the bulk, 90 percent of these employees,
3 according to your testimony, were basically based on
4 an evaluation of the particular supervisor or yourself
5 that they just weren't needed?

6 A It was an evaluation of various areas, correct.
7 Correct, where I gave you an illustration already.

8 Q You felt you could cut down, you could get by with
9 X amount of employees rather than the amount of employees
10 you had; is that right?

11 A That is correct.

12 Q So you sort of took a survey, you got all the
13 supervisors together and said we got a lot of employees
14 here and I don't think we need all that. Let us decide
15 how many we can get along with, minimum amount; is
16 that basically how it came about?

17 A Basically, yes.

18 Q As a result of these discussions between yourself
19 and the supervisors and the high management officials --

20 A High management officials.

21 Q Mostly 90 percent of these people were laid off?

22 A Yes.

23 Q Right?

24 A Yes.

25 Q What were they told, by the way?

1 A They were laid off for economic reasons. They
2 were laid off due to financial difficulties in some cases
3 they were told.

4 Q And these layoffs, this list is what, includes March,
5 April and June?

6 A Yes.

7 Q Those three?

8 A That period of time where we were having financial
9 difficulties.

10 Q I note that --

11 A Unless this might be one there from July 2nd, I
12 don't know which could have been the end of June, to be
13 truthful.

14 Q They all appear to be four, five or six?

15 A Yes. June was the heaviest month where they decided
16 to --

17 Q June 11th appears to be a date that --

18 A The day I signed a lot of checks.

19 Q But the pay of these people in the maintenance
20 department took place on what date, the cut?

21 A The cut? It varied between the week ending March
22 was Bob Lockhart's. I think he went from 360 to 300.

23 I would say April, the week ending -- no, I would say
24 April 8, April 8 Lockhart.

25 Q And similarly Staats' salary was reduced?

1 A If I'm not mistaken it was either a week after
2 or possibly two weeks later Cabanas and Mr. Squicciarini
3 were reduced.

4 Q So they were all in April?

5 A Basically, yes.

6 Q Were the salaries of any other departments cut, any
7 other employees?

8 A Offhand, no.

9 Q Just the maintenance?

10 A Yes.

11 Q You testified about your observation of Mr.
12 Squicciarini's work, I believe.

13 A Once.

14 Q Once?

15 A Yes.

16 Q Can you tell us again about that incident?

17 A I just saw him walking in the halls because Mr.
18 Nelson had told me that he had warned him the day he was
19 fired and rehired that particular day.

20 Q I understand.

21 A That if I could possibly observe his work to do so,
22 and because of the load of myself I only knew one particular
23 incident.

24 Q About when was this, Mr. Napolitano?

25 A I would say that was in the week of April, near the

1 end of April.

2 Q And you testified you saw Mr. Squicciarini walking
3 in the halls, I believe?

4 A Walking around in the hallways, right.

5 Q Where did you see him walking?

6 A On the lower level between the security office and
7 the Wonder Fall.

8 Q Was he standing still or walking?

9 A He was standing still and then walking. He was
10 talking and walking.

11 Q Which was it?

12 A He was standing still talking to someone and walking.

13 Q How long did you see him talking to someone?

14 A Approximately 15 to 20 minutes with one of my
15 security guards, and he continued walking, stopped and had
16 another conversation and left and that was the only time
17 I ever seen that and that was it.

18 Q You don't know what he was saying to these security
19 people?

20 A No idea.

21 Q You didn't know where he had been, where he was
22 going, where he was walking, coming from a job or going to
23 a job or whether in fact had been on the job assigned to him?

24 A From what I gather all the work that particular day
25 was concentrated in two areas, upstairs towards the main

1 lobby and towards the boiler room, to be truthful.

2 Q You didn't know at that particular moment whether
3 Mr. Squicciarini was assigned to a job or not?

4 A No.

5 Q Did you go and speak to Mr. Squicciarini about it
6 at that time?

7 A No, I didn't.

8 Q You didn't go over and ask him what he was doing
9 there?

10 A No.

11 Q Even after a statement from Mr. Nelson that he had
12 been goofing off and hadn't been doing his job, did you
13 go over to him and say, "What are you doing here?"

14 A After the demand from Mr. Nelson?

15 Q You testified Mr. Nelson had specifically told you
16 to watch Mr. Squicciarini working and make sure he does,
17 just to see how he is working and you specifically did
18 that and you went watching him.

19 You mean to say you didn't go over to him to ask him
20 what he was doing there and find out if in fact he was
21 supposed to be where he was or had a job to do or tell
22 him to go back to work?

23 A No.

24 Q Nothing?

25 A No.

1 Q That was the only time you observed him?

2 A That's right, that's correct.

3 Q At any time prior to the discharge, Mr. Napolitano,
4 did you speak to Mr. Squicciarini about his work, about
5 the fact that he wasn't working?

6 A No.

7 Q Did you inform him of the fact that you had received
8 complaints about him from Mr. Nelson that he wasn't
9 working hard enough or anything like that?

10 A No, I did not.

11 Q Now, let us get to the time of discharge or the
12 termination.

13 You said Nelson again came to you and said --

14 A That he was not satisfied with Mr. Squicciarini's
15 work.

16 Q Recommended that he get rid of him?

17 A Recommended that I make out a check for him which he
18 would let him go, and he also stated he did not change
19 his ways after the conversation of April 15th or 16th
20 which is the day again that he rehired and fired him.

21 Q And you had agreed to do that?

22 A As his department head. When he came to me, yes,
23 I didn't agree with him, I just made out the check.
24 I didn't put up any resistance him not being fired, let's
25 put it that way. Mr. Squicciarini not being fired. I took

1 the recommendation of the department-head.

2 Q You didn't find it necessary to speak to Mr.
3 Squicciarini about it at all to get his side?

4 A No.

5 Q About anything?

6 A No.

7 Q You are the assistant personnel manager?

8 A Yes.

9 JUDGE BOTT: Who is personnel manager?

10 THE WITNESS: Joe Trockel.

11 JUDGE BOTT: Did you consult with him?

12 THE WITNESS: I consulted with Mr. Nelson and Mr. Russo.

13 JUDGE BOTT: Do we have a title on Russo?

14 THE WITNESS: He was one of the other assistant
15 personnel directors. Because of the vast part of the
16 building, the many people in the building we had three,
17 two assistants and one director of personnel.

18 JUDGE BOTT: What is your total peak employment
19 during the best time of the year?

20 THE WITNESS: Employees per week?

21 JUDGE BOTT: Yes.

22 THE WITNESS: Five fifty.

23 Q You say you did not discuss the matter with Mr.
24 Trockel at all?

25 A No, Mr. Russo. I personally did not speak to Mr.

1 Trockel.

2 MR. FISH: No further questions.

3 MR. DONELAN: No redirect.

4 JUDGE BOTT: You are excused.

5 We will break for lunch until about 20 after one.

6 (Whereupon and at 12:20 o'clock P.M. a luncheon
7 recess was taken until 1:20 o'clock P.M.)

8 AFTERNOON SESSION

9 JUDGE BOTT: On the record.

10 You may proceed.

11 MR. DONELAN: Your Honor, I would like to, before
12 calling the next witness, just point to the Court certain
13 provisions of the settlement agreement which is
14 Exhibit 9 in evidence.

15 JUDGE BOTT: All right.

16 MR. DONELAN: My review of this agreement shows it
17 contains no prohibition prohibiting Local 100 and Colonie
18 Hill from operating under the agreement after certification,
19 and I would like to point specifically to Page 3,
20 Paragraph No. 4 where it says Colonie Hill will not
21 recognize respondent Local 100 as the representative of
22 any of its employees for the purpose of dealing with
23 respondent concerning grievances, labor disputes, wages,
24 rates of pay, hours of employment or other conditions
25 of other employment unless and until said labor

1 organizations shall have been certified by the board
2 as the exclusive representative of such employees.

3 I would like to point out provisions in Paragraph 5
4 on the same page that Colonie Hill will not give any
5 force or effect to the collective bargaining agreement
6 with 100 executed on March 4, 1972 or to any modification,
7 extension, renewal or supplement provided, however,
8 that nothing in the settlement agreement shall require
9 respondent Colonie Hill to vary or abandon any wage,
10 hour, seniority or other substantive feature which it has
11 established for its employees in agreement with
12 respondent, Local 100, or to prejudice the assertion by
13 its employees of any rights which may have derived as a
14 result of said agreement.

15 One further paragraph I would like to point out
16 is on Page 4, Paragraph B(1) where it says Colonie Hill
17 will withdraw and withhold all recognition of respondent
18 Local 100 as the representative of any of its employees
19 for the purpose of dealing with respondent Colonie with
20 respect to grievances, labor disputes, wages, rates of
21 pay, hours of employment, or other conditions of
22 employment unless and until said labor organization shall
23 have been certified by the National Labor Relations Board
24 as the exclusive representative of such employees.

25 JUDGE BOTT: All right, I will note that.

1 MR. DONEGAN: I would also like to point out
2 and I am sure your Honor has taken due note, in respondent's
3 marked Exhibit 1 which is the collective bargaining
4 agreement of March 4, 1972, Page No. 10, referring to
5 the term of agreement it provides that "this agreement
6 shall remain in effect from February 26, 1972 for a
7 period of three years, to expire on February 25, 1975.
8 The parties agree to meet on or about December 15, 1972
9 to negotiate wages effective February 26, 1973".

10 I would also like to point out that the agreement
11 does contain a union security agreement which is
12 contained in Subparagraph F on Page 5 which provides
13 that "new employees, if and when hired, shall be deemed
14 temporary and on a trial basis for a period of 30 days.
15 Thereafter they shall be considered as regular employees.
16 All such employees shall be granted the same benefits,
17 however, they shall not be required to become union
18 members as a condition of continuous employment until
19 on or after the 30th day subsequent to the beginning of
20 their employment".

21 JUDGE BOTT: I didn't mean to talk about this now.
22 I was going to mention it at the end of the case.

23 I hope you both will give me some kind of legal
24 memorandum, a brief, if you will, on your respective
25 theories of the case.

1 ! Maybe I will advert to this before we finish
2 but in a way what you are saying, Mr. Donelan, that
3 under those provisions you noted that after the union
4 was certified, that is, Local 100, the employer could
5 very well have done the acts alleged in Paragraphs 8 and
6 9, that is, told employees that they better, they must
7 sign up with 100 or solicit them to sign cards, could
8 have done those acts pursuant to the agreement which you
9 then in effect say became live again after the
10 certification.

11 MR. DONELAN: That is correct, without conceding
12 such acts were ever done, even if they were done they
13 were wholly proper within the purview of the union
14 security clause in the contract.

15 JUDGE BOTT: And as to the general counsel, I would
16 like to know your theory of why that would be wrong.

17 MR. FISH: Why that would be wrong?

18 JUDGE BOTT: Yes.

19 MR. FISH: First of all, I don't see how any reasonable
20 reading can be made that the union security clause
21 continue to be in force from that settlement.

22 JUDGE BOTT: No, it wasn't in force, his theory is,
23 prior to the certification, but it remained in abeyance.

24 MR. FISH: The settlement agreement only, if you notice,
25 your Honor, there is a particular distinction in the two

1 paragraphs. The settlement agreement then recognition
2 and signing of a contract.

3 The provisions say they shall not recognize the
4 union until certified, and once they are certified they
5 can be recognized.

6 But you will note there is no such provision in the
7 other paragraph which refers to signing a contract.
8 It doesn't say we will not enforce any terms of the
9 contract until certified. It just says we will not
10 continue to enforce the terms of the contract.

11 There is no proviso of course which, as you know,
12 is in all board settlements which says the employer shall
13 not vary any substantive feature of wages and hours and
14 terms of employment of its employees, but that is not,
15 in general counsel's opinion, cannot be considered under
16 any stretch of the imagination to include the union
17 security clause, not to inure to the benefit of the
18 employee, and as far as the general counsel is concerned,
19 that cannot be done under the settlement agreement.

20 As a matter of fact, it is a clear violation of it.

21 JUDGE BOTT: This is getting too detailed and you can
22 say more if you want to at the end.

23 MR. FISH: Therefore it is violation of law in
24 its assistance to Local 100.

25 JUDGE BOTT: Think about this, you don't have to

1 answer it. What should the employer have done?

2 After they got the certification they should have called
3 the union in and negotiated a new security contract?

4 MR. FISH: Certainly, just like any other.

5 JUDGE BOTT: So they would know what the score was.

6 MR. FISH: They won an election just like any union
7 wins an election and until the contract is signed they
8 are not allowed to have the union security clause.
9 They are in no better position by the fact that they had
10 signed an unlawful contract before..

11 That is the employer saying because they had
12 signed an unlawful contract which was set aside now they
13 can continue the union security clause.

14 JUDGE BOTT: I am getting your point but could the
15 employer and the union have gotten together and said
16 hey, you know, you know about that old contract we had?
17 How about it? Let us take the same deal again and
18 everybody shakes hands and says okay.

19 MR. FISH: If they had done that and they had agreed
20 on that --

21 JUDGE BOTT: Memorialized the making of some record
22 of what they were doing.

23 MR. FISH: If there was a signed contract saying the
24 old contract is in effect as of a certain date that is
25 another story, but that is what they didn't do.

1 There were negotiations and during negotiations the
2 employer decided well, we will keep the old contract in
3 effect including the union security clause.

4 JUDGE BOTT: You say continuation of the old --

5 MR. FISH: Yes.

6 JUDGE BOTT: I hope you both will give me something
7 in a brief on it. You have sharpened the positions and
8 that is probably what they were.

9 MR. DONELAN: I would like to call Mr. Cabanas, please.
10 Whereupon,

11 JOSEPH ANTHONY CABANAS,
12 having been sworn by Judge Bott, testified as follows:

13 DIRECT EXAMINATION

14 Q (By Mr. Donelan) Would you tell us your address,
15 Mr. Cabanas.

16 A 29 River Street, Sayville.

17 Q What is the first name?

18 A Joseph Anthony.

19 Q By whom are you employed, Mr. Cabanas?

20 A Colonie Hill.

21 Q Were you employed or when did you come to work for
22 Colonie Hill?

23 A March of 1972.

24 Q Could you tell us the circumstances under which you
25 came to work in March of '72?

1 'A I spoke to Mr. Conlon to see if there were any
2 operations there and he says yes, come in and fill an
3 application and I'm sure there is work that can be had
4 because now we are hiring.

5 Q How do you know Mr. Conlon, Mr. Cabanas?

6 A Mr. Conlon is my brother-in-law.

7 Q At the time you came to work for Colonie Hill would
8 you tell us what rate of pay you were receiving?

9 A I believe it was \$205 a week or could have been 202,
10 I don't remember.

11 Q Can you tell us were you in the maintenance department
12 at Colonie Hill?

13 A Yes, I was a maintenance mechanic.

14 Q Would you tell us who was your supervisor when you
15 first started there?

16 A Mr. Arthur Dickerson.

17 Q Did there come a time in 1973 when someone took
18 Mr. Dickerson's place as supervisor?

19 A Yes, that was Walter Neilson.

20 Q Do you recollect when that occurred, Mr. Cabanas?

21 A Right after Mr. Dickerson left. I would say that
22 was before March of '73, I believe. I'm not clear.

23 Q At the time Mr. Dickerson left and the time Mr.
24 Lockhart became supervisor did you ever have any
25 discussions with Mr. Squicciarini concerning the position

1 of supervisor of the maintenance department?

2 A Yes.

3 Q Could you tell us when you had such discussions?

4 A I believe when Mr. Lockhart became the immediate
5 supervisor or our supervisor Mr. Squicciarini had
6 mentioned that he was -- well, was more or less disturbed
7 that he wasn't chosen as supervisor by Mr. Neilson, I
8 believe, and he did gripe about it. I guess he had
9 reason to.

10 But more or less he was disturbed about the fact that
11 somebody else was chosen instead of him.

12 Q Had you worked with Mr. Squicciarini prior to the
13 time Mr. Lockhart became supervisor?

14 A Yes, I did.

15 Q Did you work side by side with him on any occasions?

16 A Yes, numerous occasions.

17 Q Did you make any observation of the work that was
18 done by Mr. Squicciarini prior to the time Mr. Lockhart
19 became supervisor?

20 A Prior to the time that he became?

21 Q Yes.

22 A Yes, we did quite a bit of maintenance work and I
23 thought we got along pretty well. We did quite a lot --
24 we accomplished quite a lot because we were working sort
25 of hand to hand.

1 There was a lot of -- there was harmony.

2 Q Did you feel Mr. Squicciarini was carrying his
3 weight as far as the workload was concerned?

4 A Before Mr. Lockhart? Yes.

5 Q After Mr. Lockhart became supervisor did you again
6 work with Mr. Squicciarini at the complex, Colonie Hill?

7 A Yes.

8 Q Did you make any observation of Mr. Squicciarini's
9 work after the time Mr. Lockhart became supervisor?

10 A Yes, I can say that he became more or less slow in
11 his task. He did some griping because I guess he felt he
12 was something -- something was taken from him and he felt
13 that --

14 MR. FISH: I object and move to strike as to what he
15 felt.

16 JUDGE BOTT: Strike the last part.

17 You may ask another question.

18 Q After Mr. Lockhart became supervisor did Mr.
19 Squicciarini express to you any resentment or bitterness
20 at not being made the supervisor of the maintenance
21 department?

22 A Yes, he did. We talked at length about the problem
23 and he said he has had it with Colonie Hill, he is going
24 to take his tools home, he is not going to provide any
25 more helpful task like that, providing his tools because
 at the time we did not have many equipment and his general

1 attitude was more or less devil-may-care I think it was.
2 He was just fed up.

3 Q After Mr. Lockhart became supervisor did you notice the
4 decline in the amount of work Mr. Squicciarini performed
5 as opposed to what he had done before Mr. Lockhart became
6 supervisor?

7 A Well, I would say yes. I have noticed some. I was
8 more or less getting the brunt of the load.

9 He did -- I would say he would slow down quite a bit
10 because -- well, whatever feelings he had toward the company.

11 MR. FISH: Objection again as to this witness'
12 conclusions.

13 THE WITNESS: I'm sorry.

14 JUDGE BOTT: That may go out.

15 Q Mr. Cabanas, did there come a time when your pay was
16 reduced by Colonie Hill?

17 A I beg your pardon?

18 A Did there come a time when Colonie Hill reduced the
19 amount of pay you were receiving?

20 A Correct.

21 Q Do you recollect when that reduction came about?

22 A I think it was around March, soon after March, right
23 around that period. My pay was cut.

24 Q Do you recollect the figure it was cut to?

25 A Let's see, about \$1.40 a week, I believe.

Q Do you know the new hourly rate you were receiving?

1 A 4.10 an hour.

2 Q Did you ever discuss this pay reduction with anyone?

3 A Yes, Mr. Lockhart came into the maintenance shop and
4 he informed me of it. I think Mr. Squicciarini was there
5 at the time.

6 Q What did Mr. Lockhart say to you?

7 A Well, I said, you know, give me some idea of what
8 this is all about.

9 He says well, this is a directive that came directly
10 from Mr. Neilson. He said you will have to talk to him
11 about this.

12 I was on my way there and met Mr. Conlon and I wanted
13 him to explain to me what the situation was, and he said
14 that because of financial reasons there's going to cut backs
15 because at the time the company was hurting financially.

16 Q Subsequent to your pay reduction, Mr. Cabanos, did
17 you attend a union meeting relative to the pay reduction
18 which you had received?

19 A Yes. As a matter of fact, I spoke to -- I wanted to
20 talk to Mr. O'Keefe. He was presiding over the meeting.

21 Q First tell us who Mr. O'Keefe was.

22 A Oh, he was the president of Local 100. I believe
23 Mr. James Staats was present at the time, I'm not sure,
24 it might have been Mr. Eckert.

25 Any way at the time --

1 JUDGE BOTT: Did he say president of present?

2 THE WITNESS: Prisident.

3 At the time there was a general feeling between the
4 waitresses -- well, they wanted to know what the situation
5 was too because they have heard that there was a cutback
6 and certain people, they didn't know who but they were
7 concerned.

8 I believe that the waitresses that worked in the
9 restaurant and before I could -- I asked Mr. O'Keefe --
10 one of them had asked him what about cuts in salary, and
11 he said that he spoke to Mr. DeLillo and because there was
12 a loss of \$1,000,000, he had lost that time that certain
13 cutbacks or cuts would have to be made because he can no
14 longer take this, no longer handle this payroll or et cetera.

15 MR. DONELAN: I have no further questions.

16 CROSS EXAMINATION

17 Q (By Mr. Fish) Mr. Cabanos, did you sign a card
18 for Local 30?

19 A I met with a man in our shop. I don't know
20 whether I signed or not. I might have, I don't know.

21 Q You might have?

22 A I have no recollection of it. I know I met with a
23 gentleman in the shop, and Mr. Squicciarini was there and
24 so was another fellow. I forget hisname.

25 Q Did you testify that after Mr. Lockhart was

1 made supervisor Mr. Squicciarini complained to you about
2 it, griped about it and so forth, and you also testified
3 that his work slowed down quite a bit I believe were the
4 words you used; is that correct?

5 A Yes.

6 Q Can you be a little more specific for us,
7 please, as to what you mean by his work slowed down?

8 A Well, at the beginning when we started working
9 together we performed all tasks and I noted that after Mr.
10 Lockhart took over there was I guess an atmosphere of
11 resentment.

12 Q I'm not interested in an atmosphere of resentment,
13 I'm interested in your testimony as to how he slowed down
14 his work?

15 A Well, being that I worked with him I could feel --

16 Q You could feel?

17 A I could feel that how much work I was doing at the
18 time. I could see the work not being done.

19 Q Whattypesof work? Give us some examples. What types
20 of worked with him on on which you noticed his slowing
21 down?

22 A I hate to -- I don't have one specific task that we
23 accomplished together.

24 Q You can't remember any?

25 A I can remember a lot.

1 : Okay, let's see. Well, working on fountains, outdoor
2 work that we had, we were doing on the fountains.

3 Q Outdoor work on the fountains?

4 A Yes.

5 Q When was this, Mr. Cabanos?

6 A During the summertime.

7 Q During the summer?

8 A During the summertime.

9 Q What months, approximately?

10 A June maybe.

11 Q June?

12 A Yes. Wait a minute, I'm trying to think now.

13 You know, it might have been later or early summer.

14 Early summer. That was in '72, I'm sorry.

15 Wait a minute, I know I got quite a few things mixed
16 up in my mind.

17 Q Take your time.

18 A Okay.

19 Q So then you were eliminating outdoor work?

20 A Yes. Let's see, at that time we were doing work in
21 the golf club.

22 Oh yes, yes. Well, we had to do some work in the
23 health club. I believe we were opening up, we were doing
24 some work in the whirlpool baths.

25 Q Whirlpool baths?

1 A Yes.

2 Q What kind of work was it?

3 A We had to prepare it for -- because --

4 Q Sorry?

5 A Prepare it for operation.

6 Q Prepare the whirlpool bath for operation?

7 A Well, the health club.

8 Q This is a job that you worked on with Mr. Squicciarini?

9 A I worked with Mr. Squicciarini, yes, sir. He was
10 doing the installing some faucets. I was doing some
11 caulking to that effect.

12 Q He was what? What was he doing?

13 A He was doing some installing some faucets or
14 repairing some faucets, I don't remember.

15 Q He was installing faucets and what were you doing?

16 A I was caulking for or walls, whatever.

17 Q When was this, Mr. Cabanos?

18 A This is right after, let's say March because Mr.
19 Neilson wanted this repaired for the members.

20 Q What date did you say that was, March?

21 A I think so. I'm not, you know -- it might have been
22 March when we started opening up.

23 Q It might have been March but you are not sure when?

24 A No, I know Mr. Neilson came to me and also Mr.
25 Lockhart I believe and said that we have to prepare the

1 health club for operation.

2 Q But you are sure that was after Lockhart became
3 supervisor?

4 A I believe so, yes.

5 Q You believe so?

6 A Okay, I know so.

7 Q So they told you to go to the health club? Had you
8 ever done this job before?

9 A Did I ever do this job before? Yes, I have done that
10 job before.

11 Q Prior to that with Mr. Squicciarini, had you ever
12 done this job before?

13 A No, no.

14 Q You had not?

15 A No.

16 Q So now you testified that on this job that the health
17 club Mr. Squicciarini installed faucets and you were
18 caulking floors; is that correct?

19 A Yes.

20 Q Was anything else done on this job?

21 A Anything else done on this job?

22 Q Yes, that you did or he did?

23 A No, I was given one specific situation.

24 Q On this specific job is it your testimony that you
25 noted that Mr. Squicciarini was working slower than he had

1 in the past?

2 A Sure because I have seen in the past him do plumbing
3 work which is supposed to be his line and I seen him do
4 some terrific jobs.

5 At the beginning we used to do quite a bit of work
6 and in no time flat as the saying goes.

7 Q You just testified before that you hadn't done this
8 type, Mr. Squicciarini and you had not done this type of
9 job before?

10 A I have seen Mr. Squicciarini performing plumbing work.

11 Q Oh, plumbing work in general?

12 I see, but you never had seen him install
13 faucets at the health club; is that correct?

14 A Well, we have installed them in the motel. We
15 changed faucets in the restaurants, that type of work.

16 Q Were you watching him while he was installing the
17 faucets?

18 A We were working in the same area.

19 Q But you were doing your own work, weren't you? You
20 were doing the caulking of the floors?

21 A Yes, but I also helped him with the work after awhile.

22 Q Oh, after awhile then you helped him?

23 A I helped him with the work.

24 Q What was it that you noticed that made you believe
25 that Mr. Squicciarini was working slowly?

1 A Well --

2 Q Did you see him sitting there doing nothing? What?

3 A No, just a general --

4 Q General what?

5 A A general type of work which Mr. Squicciarini is
6 capable of doing.

7 Q What was it that you noticed about this work that
8 made it not typical?

9 Was it done improperly?

10 A Just that it got dragged on.

11 Q Got dragged on?

12 A Sure did. It was -- in other words, the work should
13 have been finished, let us say in a day and it took a few
14 days to finish this.

15 Q It took a few days?

16 A Yes.

17 Q What made you decide it should have been done faster?

18 A Because I'm not really -- I can't be qualified as a
19 plumber.

20 Q You were not qualified as a plumber but you still
21 are qualified to make a determination that Mr. Squicciarini's
22 installing the faucets was slower than it should have been;
23 is that correct?

24 A Oh, fine. My belief I can -- I could have done the
25 work much faster.

1 Q You could have done the work much faster?

2 A Yes.

3 Q You are not a qualified plumber, you admit, but you
4 say you could have done the work faster?

5 A Yes, and it was -- in other words, it was general
6 consensus of Mr. Lockhart or Mr. Neilson, they wanted a
7 progress of report of what is taking so long, what is the
8 problem.

9 Q On this job?

10 A On that specific job, yes.

11 Q Once again you didn't see Mr. Squicciarini standing
12 around doing nothing on any of these occasions on this
13 job, did you?

14 He was working, wasn't he, throughout the entire
15 time you were with him but it is your feeling he could have
16 worked faster; is that basically your testimony?

17 A Yes and -- well, I don't remember -- let me see --
18 Let's see if I can recall.

19 No, I didn't, I wouldn't say I saw him standing
20 around.

21 Q Any oaher examples other than this one that you have
22 just given us where you noticed Mr. Squicciarini working
23 "slower than he had been working prior to --"?

24 A Let me put it this way, Mr. Squicciarini was -- I
25 don't know if he was under the impression that he was in

1 a sort of managerial position and had of times I would
2 have -- we went to do a job, Mr. Squicciarini sought of --
3 he didn't actually supervise but I think he could have
4 helped me to complete the task.

5 Q He could have helped you complete the task? What
6 specifically are you referring to, Mr. Cabanas?

7 A It is not just -- you can't just pick one specific
8 task. It was just a general work that was accomplished
9 in a days time.

10 Q General work that was accomplished in a days time?
11 What do you mean? What general work? Your work that you
12 felt he should have helped you with or work that he was
13 assigned to?

14 A No, a lot of work you have to do together, that you
15 need two men to do.

16 Q Go ahead, and?

17 A And I felt that I should have had a little more
18 coopertion from Mr. Squicciarini.

19 Q A little more cooperation?

20 Now, again I'm kind of unclear on that, Mr. Cabanas.
21 Could you be a little more specific?

22 What type of job are you talking about and what type
23 of cooperation are you talking about that Mr. Squicciarini
24 did not give you?

25 A By cooperation, if we were doing something together

1 I think the work load should be shared and I felt that I
2 was getting the brunt of the work.

3 Q Can you give us some specific examples, like what
4 kinds of jobs?

5 A All right, give me a second and let's see if I can
6 pick another one. There is an awful lot that really --

7 Q But you can't think of any?

8 A Of course I can think of a few but I mean --

9 Q Please do so.

10 A Let me explain something, that there was time when
11 I went on my own and so did Mr. Squicciarini, so he went
12 to perform certain tasks, whatever it entailed in his end
13

14 Let us say if I went to repair a machine or
15 something like that, and I would look for him later and
16 sometimes I see him like standing in the halls or talking
17 to somebody and from then on, then we went and finished
18 the job that he had started.

19 Q I still would like some specific example.

20 You said many many times you were working on a job
21 together and you felt that Mr. Squicciarini didn't cooperate
22 with you in your terms.

23 You were saying that you had to do more work than
24 you felt you should. Now, could you please give me one
25 or two specific examples of this?

A There is really -- no, I really can't pinpoint one

1 thing that -- the only thing I can, you know, see what I --
2 think that I saw during the day but I cannot pinpoint one
3 job. I just gave you an example.

4 Q We went through that one.

5 A Do you want another example?

6 Q Yes, if you could think of one, an example of where
7 you worked together and you felt he didn't cooperate with
8 you and you had to do more than your share of the work as
9 a result of that?

10 A Okay. We were one time -- let's see now -- okay, one
11 time we had to repair a leak in the motel room.

12 Q In the what?

13 A Motel room -- not motel room, in the lower lobby of
14 the -- the lower level of the motel, and it took forever.
15 Something that we need, I needed cooperation from Mr.
16 Squicciarini because the way we were to go back to get
17 tools, it was quite a walk. Maybe three or four minute
18 walk.

19 Sometimes I waited and waited for Mr. Squicciarini
20 to come along and I had to finally go get him because he
21 just didn't come back. He got involved with somebody or
22 something like that, and the main thing was to get that
23 job finished.

24 Mr. Squicciarini just didn't report to the area that
25 we were working as fast as he should have.

1 Q When was this incident?

2 A Well, that is when it was prior to him being laid off.

3 Q When though, approximately what month?

4 A It was right around the time that he was laid off.

5 Q Right around the time --

6 A Yes, maybe before he was laid off, a few weeks or
7 after.

8 Q Sometime in June then?

9 A I would say so.

10 Q So then in this incident you went to repair a leak
11 in the motel; is that correct?

12 A Yes.

13 Q You were both assigned this job by someone?

14 A Yes.

15 Q By who?

16 A There was a call from -- I believe somebody in the
17 motel and it was reported to Mr. Neilson, I believe, that
18 is how we got the word.

19 I don't know if it was Mr. Neilson or Mr. Lockhart.

20 Q And they told the two of you to go and repair this
21 leak together?

22 A Yes.

23 Q Then what happened after that?

24 A To go take care of it.

25 Q Go take care of it?

1 A Yes.

2 Q What happened after that? Were you both told at the
3 same moment to go to the same job?

4 A Well, it was like get ahold of Mo and you fellows
5 go and see what you could do.

6 Q So he told you, you were instructed to go get Mo and
7 take care of the job?

8 A Yes.

9 Q And what did you do?

10 A So I told Mo.

11 Q What did you tell him?

12 A That we have a problem in a motel room and it has to
13 be rectified.

14 Q What did Mo say to you about that?

15 A He didn't say anything, he just said okay.

16 Q He said okay?

17 A We will take care of it.

18 Q Then what happened?

19 A Well, we proceeded to repair and it just wasn't done
20 as fast as it could possibly be done because Mr. Squicciarini
21 just wasn't around.

22 Q Let us backtrack.

23 We are at the station now, Mr. Cabanas, where you go
24 over to Mr. Squicciarini and you say we got a job to do over
25 the motel and he says okay, we will take care of it, right?

1 A Yes.

2 Q What happened next? Did you both go over there to
3 the job together?

4 A We went over there to inspect the job.

5 Q Who inspected the job, both of you together or how
6 did it work?

7 A Yes, we both looked at the job.

8 Q Did you have a discussion about what to do about it?

9 A Yes, we said well, we need wrenches or ladders or
10 what not, and we have to -- it has to be done a certain way.

11 Q You both discussed it and decided how to proceed?

12 A Yes.

13 Q Then what happened?

14 A Well, we had -- it was sort of like an agreement,
15 somebody thought of a certain tool they needed the person
16 went and got it or, let's see, if I thought of it and we
17 needed it he would go after it and get or if he thought of
18 it I would go get it.

19 Q I'm sorry, can I have that again?

20 A It if was -- if we needed certain equipment or certain
21 tools and I thought about it he would go and get it.

22 Q In other words, it is like a bonus for thinking of the
23 right tool, the other guy had to go?

24 A Right.

25 Q And this was what, an arrangement just between you

1 two?

2 A Yes, it was an arrangement we had.

3 Q This was the way it worked?

4 A Yes.

5 Q So what happened, you thought of the tool in this
6 case?

7 A Yes, I thought of something that we needed.

8 Q Do you remember what it was?

9 A No, I don't remember what it was. It could have been
10 an awful lot of things because it required quite a bit of
11 tools sometimes.

12 Q So you thought of it, so therefore it was Mr.
13 Squicciarini's job to go get it; is that right?

14 A Yes.

15 Q Then what? Did you say go get or did he say okay, I
16 will get it?

17 A Right.

18 Q Which was it?

19 A He says okay, I will go get it.

20 Q He agreed to get this tool?

21 A Right.

22 Q Go ahead. Then what happened?

23 A And then I sit there and I wait for Mr. Squicciarini
24 to come back, and --

25 Q How long did it take him to get back?

1 A Well, if I say three or four minutes walking to
2 retrieve the tool from the job shop, it might be another
3 few minutes, so you figure on ten minutes and after awhile
4 you get -- you know, you are waiting around for something
5 and it goes into a 20 minutes, a half-hour, so I would
6 backtrack and find Mr. Squicciarini around talking to some-
7 body, to one of the security officers or something like
8 that.

9 Q Hold it. On this particular item you say Mr.
10 Squicciarini never came back at all; is that what you are
11 saying now?

12 He just left and never came back?

13 A Right, that's right. He had intentions of coming
14 back.

15 Q He said he was going to come back but he didn't?

16 A Yes.

17 Q So then what did you do? Did you finish the job?

18 A Well, you know, like we got to get this finished
19 because we have something else to do and then we will
20 come together, we would go to the job together.

21 Q Let's talk about this job.

22 So you say Mr. Squicciarini left, he was supposed
23 to come back with the tool and suddenly he never appeared,
24 it should have been maybe ten minutes he should have been
25 back and you say in ten minutes he didn't come?

1 And then 20 minutes and then a half-hour, right?

2 And he is still not here; is that right?

3 What did you do then finish the job yourself, did you
4 go get the tool or what?

5 A No, I tell you, we had a pretty relationship, and it
6 was nothing, I was not a supervisor so I therefore, I
7 couldn't say to him look, let's get the lead out or some-
8 thing like that.

9 I think it was more or less get the job done because
10 we had no supervision.

11 Q The question was what did you do? Did you go and
12 speak to Mr. Squicciarini about it, did you go and get the
13 tool yourself? What did you do when he didn't come back?

14 A I didn't speak to Mr. Squicciarini. I might have
15 said like we have to get the job done.

16 Q To who?

17 A To Mr. Squicciarini.

18 Q So when he didn't come back did you go and look for
19 Mr. Squicciarini, after he didn't come back with the tool?

20 A Yes.

21 Q You did?

22 A Yes.

23 Q You found him somewhere?

24 A Yea.

25 Q Where was he?

1 A Well, it was -- I knew that if I backtracked the
2 shortest way to get back to the shop or to get to the place
3 that we were going to work I would find him somewhere along
4 the way.

5 Q Somewhere did you find him?

6 A I found him in the hallway.

7 Q What was he doing?

8 A Well, he was talking to one of the security guards,
9 I believe. It might have been a security guard or one of
10 the clean up people, I'm not really too -- it could have
11 been a security guard or clean up person.

12 Q Then you went over to him and he didn't have the tool,
13 or he did?

14 A Yes, he had the tool.

15 Q He had the tool with him?

16 A Yes.

17 Q But he hadn't come back?

18 A Yes.

19 Q So then what did you say to him?

20 A As I said before, we have to get the job done and
21 because there's other jobs to be done.

22 Q What did he say?

23 A Nothing. It was, you know --

24 Q Then he came back with you?

25 A Then we came back and --

1 Q You finished the job?

2 A Yes.

3 Q Did you ask him who he was talking to or why he was
4 talking to this other person?

5 A Not really.

6 Q Are there any other examples that you can think about
7 offhand?

8 A There might be others. You know, if I pick another
9 one -- I have to think and then it is going to get all
10 involved again like I say, it's been quite awhile.

11 Q Can you think of any more offhand or not?

12 A No, I really can't, not offhand.

13 Q Mr. Cabanas, you consider yourself skilled in
14 plumbing skills?

15 A Skill? Gee, not a -- I perform plumbing tasks but
16 wouldn't say -- just -- I don't know -- have any degree in
17 plumbing or any -- I never belonged to an union or anything
18 like that, plumbing union, but I can handle a plumbing job.

19 Q How would you compare your skills with Mr. Squicciarini's
20 skills of plumbing?

21 A There is no comparison. Mr. Squicciarini, of course,
22 knows much more than I do because he has been in the
23 business.

24 Q Would you say basically that when you and Mr.
25 Squicciarini worked together on plumbing tasks that you were

1 more or less his helper?

2 A Yes, okay. At times I was his helper because he did
3 need a helper.

4 Q During these occasions when, as you testified, you
5 would be his helper, would he tell you what to do on the
6 job?

7 A No, I think it was more or less like a mutual thing
8 because we knew -- there was really nothing that had to be --
9 well, there was no new construction or anything.

10 JUDGE BOTT: Some jobs are routine?

11 THE WITNESS: Yes.

12 JUDGE BOTT: Like putting in a new faucet?

13 THE WITNESS: Right, and if you are at least handy
14 with tools you have a pretty good idea just what has to be
15 done.

16 JUDGE BOTT: But you indicated that you would not
17 compare yourself to him as far as new construction, for
18 example?

19 THE WITNESS: True, but we had everything constructed.

20 JUDGE BOTT: I understand, but sometimes you have to
21 tear things out and rebuild them and that is what takes a
22 man with design and blueprints and so on.

23 THE WITNESS: If there was a job to be done or some-
24 thing was new we would get together and we sort of compare
25 notes on what had to be done.

1 JUDGE BOTT: On this you described yourself I think
2 as a maintenance mechanic?

3 THE WITNESS: Yes.

4 JUDGE BOTT: What is your specialty? Is plumbing or
5 is it general --

6 THE WITNESS: General maintenance, machinery, some
7 electricity, plumbing, along those lines.

8 Usually, you know, if you could get somebody with all
9 the qualifications thrown into one it would be a lifesaver
10 really for any complex.

11 JUDGE BOTT: Some places they call it general
12 handyman or even if a lock had to be fixed or a door that
13 is broken --

14 THE WITNESS: This is something along the lines.

15 JUDGE BOTT: Do they have a carpenter there?

16 THE WITNESS: No, no, we did the carpentry.

17 JUDGE BOTT: If you had to put a door on, take it
18 off or the door gets stuck?

19 THE WITNESS: That is one of our tasks, that we did
20 repair any --

21 Q Do you recall an occasion, Mr. Cabanas, where you had
22 a water main break at the complex?

23 A Yes.

24 Q Do you remember when that was?

25 A Oh gosh, the date now -- I know it was pretty cold

1 so it was on a Saturday, I believe, October, it might have
2 been October. That was chilly.

3 Q Do you remember another water main break?

4 A Another water main break? Yes.

5 Q About May? Do you remember a water main break about
6 May of '73?

7 A Yes.

8 Q Do you remember who was assigned to fix that?

9 A Who was assigned to fix that?

10 Q Or who fixed it?

11 A Let's see now. Yes, I believe they called -- I may
12 get the man's name right.

13 They called -- he is one of the subcontractors, one
14 of the subcontractors of Colonie Hill from Tower Plumbing,
15 I believe.

16 I can't recall the man's name but he provided the
17 equipment and some of the material.

18 Q Was Mr. Squicciarini involved in it at all in fixing
19 the water main break, do you know?

20 A You are talking about the first water main break?

21 Q No, the second one in May of '73. Do you know if
22 Mr. Squicciarini was involved at all in the fixing of this
23 water main break?

24 A I believe so, yes.

25 Q He was?

1 A Yes.

2 Q You were not though?

3 A I don't think so. No, I wasn't. I don't know whether
4 it was this one or the first one because I had gone home
5 early or it was on a Saturday, I had gone home.

6 Q You would consider this a pretty big job, would you
7 not?

8 A Yes, of course. It entails a lot of heavy equipment
9 and a lot of men to employ but Mr. Squicciarini himself
10 didn't repair the water main break.

11 Q How was he involved in it?

12 A Well, he was helping to repair because --

13 Q But you were not?

14 A No, I was not. I don't think I was available.

15 MR. FISH: Nothing further.

16 REDIRECT EXAMINATION

17 Q (By Mr. Donelan) Mr. Cabanas, you testified that
18 on occasion you worked alone at Colonie Hill.

19 Could you tell us the scope of your work, what kind
20 of work you were doing there?

21 A Generally let us take maintenance. Repairing locks
22 if something went wrong. Doors, repairing machinery, sort
23 of like for instance a dishwasher and at the time we
24 couldn't get ahold of the repairman, do that.

25 If fuses blew or electrical, anything that had to do

1 with electrical motors, changing fuses.

2 JUDGE BOTT: Did you work in the kitchen when kitchen
3 equipment goes on the bum or gets broken?

4 THE WITNESS: Yes, the ovens, drains.

5 There's such a large scope of things that you know
6 go wrong.

7 JUDGE BOTT: It sounds to me like in a big apartment
8 building where you have a man that is always called an
9 engineer, that is the title in big highrises and he does
10 all the things that he can do that doesn't require the
11 services of a licensed electrician, a licensed plumber
12 and things of that nature.

13 You take care of about everything that you are able
14 to do.

15 THE WITNESS: That is the case, then I'm an engineer.

16 JUDGE BOTT: You know what I mean? This is the title.
17 This man may or may not be an "engineer". He may or may
18 not be licensed and he may or may not belong to the
19 Operating Engineers Union or a different kind or the
20 Stationary Engineers Union, but they call him an engineer.

21 If anything goes wrong you call him and he looks at
22 this and he says this has to go back to the factory.

23 This one we need a new part and you can't fix it but
24 if you can fix it you fix it. We need men like you.

25 THE WITNESS: There's not many of us, I guess.

1 Q Mr. Cabanas, was Mr. Squicciarini doing the same type
2 of work that you were doing?

3 A Yes.

4 Q I believe you also testified there were occasions
5 on which you worked together to do a job?

6 A Yes.

7 Q On occasions that you worked together prior to the
8 time Mr. Lockhart became supervisor when you did a job
9 together and did you share the work load of that job?

10 A You mean prior?

11 Q Prior to Mr. Lockhart becoming supervisor?

12 A Yes.

13 Q Basically on the jobs you did you shared the work load
14 of those jobs?

15 A True.

16 Q After Mr. Lockhart became supervisor I presume you
17 also did some jobs with Mr. Squicciarini as you did together
18 after that time?

19 A Yes.

20 Q On those jobs did you share the work load after Mr.
21 Lockhart became supervisor?

22 A Well, let me put it this way, I don't say that we
23 shared the work load. I believe that I was doing more or
24 less more of the work because Mr. Squicciarini, like I said,
25 he was a little --

1 MR. FISH: Objection.

2 MR. DONELAN: He hasn't answered.

3 JUDGE BOTT: I don't know what he is going to say.

4 MR. FISH: When he starts saying because I would
5 object to anything thereafter.

6 JUDGE BOTT: Rephrase the question. Ask him the
7 question.

8 Q Mr. Cabanas, on routine jobs, repair jobs in the
9 complex after Mr. Lockhart became supervisor, did Mr.
10 Squicciarini do these jobs with the same vigor and
11 enthusiasm he had done prior to Mr. Lockhart becoming
12 supervisor?

13 A No.

14 Q Did Mr. Squicciarini complain or make statements to
15 you after Mr. Lockhart became supervisor that he was
16 dissatisfied and not happy?

17 A Well, as I mentioned before he did, he did say that,
18 you know, "I'm getting sick of the situation, I'm taking
19 all my tools home."

20 As a matter of fact, I think we kidded about "If you
21 re going to take the tools home why don't you lease them
22 or rent them to Colonie Hill?" To that effect, because
23 he did have his tools and we could have used them.

24 MR. DONELAN: I have no further questions.

25 RECROSS EXAMINATION

1 Q (By Mr. Fish) By the way, did you ever complain
2 to Mr. Squicciarini that you felt he wasn't carrying his
3 fair share of the work?

4 A I didn't have to. It wasn't my -- I wasn't in a
5 position to tell him "look".

6 Q I didn't ask you that, Mr. Cabanas. I asked you
7 whether in fact you told him?

8 A No, I didn't complain to him, no.

9 Q Did you ever complain to the supervisor about the
10 fact that Mr. Squicciarini was not doing his work?

11 A No, I didn't complain.

12 MR. FISH: Nothing further.

13 JUDGE BOTT: I regret asking you this but I'm entotled
14 to.

15 Do you remember the job that you talked so much about
16 and we spent so much time about, the leak in the motel?
17 That is where Mr. Squicciarini went for atool and he took
18 a little bit of time coming back?

19 THE WITNESS: Yes.

20 JUDGE BOTT: The leak was where, in the basement?

21 THE WITNESS: No, no, a hung ceiling and --

22 JUDGE BOTT: In what room? What area, what part
23 of the motel?

24 THE WITNESS: It is in the hallway.

25 JUDGE BOTT: In the ceiling?

1 JUDGE BOTT: So when you got there the pipe was not
2 visible?

3 THE WITNESS: Right.

4 JUDGE BOTT: There was water or stain or something?

5 THE WITNESS: Yes, you removed the tiles and, you
6 know --

7 JUDGE BOTT: You knew what you were looking for?

8 THE WITNESS: Yes.

9 JUDGE BOTT: What was the pipe carrying?

10 THE WITNESS: Hot water I believe, I think it was the
11 hot water pipe.

12 JUDGE BOTT: That is just curiosity. You are excused.

13 MR. DONELAN: I would like to call another witness,
14 please, Mr. Walter Conlon.

15 WALTER CONLON

16 was duly sworn and testified as follows:

17 DIRECT EXAMINATION

18 Q (By Mr. Donelan) May we have your name and address?

19 A Walter Conlon, 201 Handsom Avneue, Sayeville, New
20 York.

21 Q Mr. Conlon, will you tell us who your present employer
22 is?

23 A Colonie Hill.

24 Q And tell us what position you hold with Colonie Hill?

25 A I acted as liaison between the ownership and the

1 management.

2 Q Mr. Conlon, in your absence yesterday Mr. Squicciarini
3 testified that prior to the election between Local 100 and
4 Local 164 at Colonie Hill in December, 1972, that he was
5 asked to go see you in your office and that you told him
6 at that meeting to withdraw and get out of Local 30.

7 Mr. Conlon, do you recollect having such a meeting
8 in your office with Mr. Squicciarini in or about December
9 of 1973 or any time prior to that time?

10 A I have had a number of meetings.

11 MR. FISH: December of '72.

12 Q Forgive me, December, '72?

13 A I have had a number of meetings with Mr. Squicciarini.

14 Q At any one of these meetings did you ever advise or
15 tell Mr. Squicciarini to withdraw from Local 30 and to
16 get out of that union?

17 A Absolutely not.

18 Q Did you ever discuss Local 30 with Mr. Squicciarini?

19 A No, I did not.

20 Q Did you ever discuss Local 775 with Mr. Squicciarini?

21 A No, I did not.

22 Q Did you ever discuss Local 100 with him?

23 A No, I did not.

24 Q Mr. Conlon, Mr. Squicciarini testified that these
25 events occurred in December of 1972. Were you employed

1 by Colonie Hill in December of 1972?

2 A No, I was not.

3 Q Could you tell us by whom you were employed at that
4 time?

5 A I was employed by Raymond F. Fellman, architect on
6 the project.

7 Q Mr. Fellman was the architect for the Colonie Hill
8 Project?

9 A For the project which became known as Colonie Hill,
10 yes.

11 Q Could you tell us what position or function or duties
12 you had with Mr. Fellman at that time?

13 A From the concept of the project which had in name,
14 its inception, related to its current name, I was retained
15 by Mr. Fellman as a management consultant to oversee the
16 coordination of the project from concept by the owners,
17 Operating Engineers Local 138 Retirement and Pension Fund
18 through the development of the concept and the construction
19 of the project.

20
21 As the project completed to a point of being
22 occupiable in part there were perhaps three areas of
23 responsibilities which had to be constantly reviewed on
24 behalf of the prior owner and the architect having to do
25 with contractors, the responsibility of the tenant which
was then Colonie Hill, and the responsibility of the actual

1 contractors separately from the ownership, such as warrantees
2 or guarantees, and also everything that came up in the
3 early days of the occupancy of the building where there
4 would be incomplete items or malfunctioning items or non
5 functioning items as is want to be with new construction
6 until everything becomes operative.

7 These questions had to be reviewed and in those days
8 that was my function.

9 A Mr. Conlon, did there come a time when you left the
10 employ of Mr. Fellman and entered into the employ of
11 Colonie Hill?

12 A Yes.

13 Q When did that occur?

14 A In or around March, 1973.

15 Q After you became employed by Colonie Hill could you
16 tell us what duties or functions you had in your capacity
17 as an employee of Colonie Hill?

18 A There were continuing items of construction and areas
19 of interest of operation which to some degree related to
20 construction.

21 My function was to act as liaison between the owner
22 and management, with particular emphasis on these areas
23 of construction and completion of construction.

24 Q After you went to work for Colonie Hill in I think you
25 said March of '73, did you ever discuss Local 100 with

1 Mr. Squicciarini, after you went to work for Colonie Hill?

2 A No, not with Mr. Squicciarini.

3 Q Did you ever have any discussions with Mr.
4 Squicciarini concerning Local 775?

5 A No.

6 Q Mr. Conlon, in your absence yesterday Mr.
7 Squicciarini also testified that after his pay was reduced
8 by Colonie Hill in April or May of 1973 that he came to
9 you and spoke to you about it and that you advised him
10 you would check into it and do something about it.

11 Mr. Conlon, do you ever recollect having such a
12 conversation with Mr. Squicciarini concerning his rate of
13 pay?

14 A Yes, I recall such a conversation.

15 Q Would you be kind enough to tell us what he said to
16 you?

17 First of all, do you recall when the conversation
18 took place?

19 A It was in and around the time that the pay reductions
20 occurred which seems to me to be in or around April or
21 thereabouts of 1973.

22 Q Would you be kind enough to tell us as best you
23 recollect what Mr. Squicciarini said to you and what you
24 said to him?

25 A If I may answer a little more fully, Mr. Squicciarini

1 became acquainted as a result of his having worked for one
2 of the contractors and because of his continuing overseeing
3 and involvement of one of the building superintendents,
4 Mr. Dickerson (phonetic).

5 When the position between the former owner and the
6 current owner was taking place Mr. Squicciarini sought
7 employment with Colonie Hill under the direction of Mr.
8 Dickerson.

9 Mr. Dickerson and I had a very closesly liaison
10 because of the problems of construction and completion and
11 functioning of the various aspects of the complex.

12 Mr. Squicciarini indicated to me on a number of
13 occasions his interest in becoming a part of supervision
14 with Mr. Dickerson.

15 Mr. Dickerson, as service department at that time to
16 my knowledge at least placed no one in the position of
17 intermediary supervisory responsibility.

18 Mr. Dickerson was the head of the department having
19 to do with all buildings and grounds and Mr. Squicciarini
20 sought a supervisory position under him.

21 Mr. Squicciarini spoke to me on a number of occasions
22 about his desires and interest in improving his position.

23 One one occasion he asked me to review his resume
24 and his background, and he gave me some papers which provided
25 reading material to that effect.

1 I think it was against this backdrop of some
2 communication that Mr. Squicciarini came to me when there
3 was a pay reduction by Colonie Hill and expressed concern
4 over his particular pay reduction.

5 I did indicate to him that I would look into it to
6 find out about the pay reduction as it affected him and
7 as I found it affected not only him but affected all people
8 in the maintenance department, and in a continuing review
9 of economic conditions against business and revenue there
10 were other pay reductions, and ultimately layoffs as a
11 result of that over view, so that it was an after concept
12 that I had a discussion with Mr. Squicciarini about his
13 pay reduction.

14 Q Mr. Conlon, did you ever hear any conversation which
15 Mr. Trockel told Mr. Squicciarini that if he didn't become
16 a member of Local 100 that he would be fired?

17 A No, I did not hear such conversation.

18 Q Did you ever hear Mr. Trockel say that to anyone at
19 Colonie Hill?

20 A No.

21 Q Mr. Conlon, after you came to work for Colonie Hill
22 in March of 1973 did you ever have any occasion to meet
23 Mr. O'Keefe of Local 100?

24 A Yes.

25 Q Would you be kind enough to tell us the circumstances

1 surrounding any meeting that you might have had with Mr,
2 O'Keefe?

3 A I was aware of Mr. O'Keefe's position with Local 100.
4 There was a genuine atmosphere and concern for the sensitive
5 circumstances that surrounded the entire establishment from
6 November through all of the proceeding with the NRB and
7 the overseeing of the election and the dispute that was
8 going on.

9 Like Mr. Fish was present out on the premises on a
10 number of occasions and there were a number and the
11 concerning atmosphere because of the seriousness of the
12 proceedings that were in progress.

13 At the conclusion of the proceedings and the election
14 and Mr. DeLillo had discussed with me coming to Colonie
15 Hill, and in describing the role that he was asking me to
16 perform and the function and responsibility I was to perform,
17 and on one occasion in his office he introduced me to Mr.
18 O'Keefe formally and although I had met him prior to this
19 occasion, on this occasion Mr. DeLillo explained to me
20 that Mr. O'Keefe was president of the union which had been
21 recognized and elected in representing the employees and
22 that any matters having to do with the representation of
23 Local 100 with the premises, with the complex, I should
24 feel free to discuss them with Mr. O'Keefe.

25 He indicated that there was an agreement in effect

1 and had been in effect since the National Relation Board
2 proceedings, that that agreement had gone back to just
3 when the place opened under the tenancy, and that until a
4 new agreement was in their language, hammered out, that
5 the agreement that was in effect prior would continue in
6 effect and that there would be a continuity under that old
7 agreement.

8 That meeting took place in Mr. DeLillo's office and
9 frankly, it was around -- it was in about March of this
10 year.

11 Q It was after you became employed by Colonie?

12 A Yes.

13 MR. DONELAN: I have no further questions.

14 JUDGE BOTT: Does the record show who Mr. DeLillo is?

15 MR. DONELAN: Perhaps I should put this on the record.

16 Q (By Mr. Donelan) Mr. Conlon, would you be kind enough
17 to tell the court who Mr. DeLillo is?

18 A Mr. DeLillo I was referring to is Mr. Andrew DeLillo.
19 He is the president of Colonie Hill Limited, the owner in
20 fee of the Colonie Hill complex prior to that he was the
21 principal in -- well, the same entity which held the lease
22 prior to its purchase.

23 JUDGE BOTT: They own the land and the buildings?

24 THE WITNESS: Yes, sir.

25 JUDGE BOTT: I'm talking about DeLillo.

1 THE WITNESS: The corporation which DeLillo is the
2 principal.

3 JUDGE BOTT: When I say him I mean the corporation
4 for identification purposes. Did they also manage the
5 business?

6 THE WITNESS: They did until I believe in August of
7 1973 in which they entered into a management lease with
8 the general manager's participating interest in that lease,
9 so all during the time that we are talking, yes, Colonie
10 Hill also managed the facility.

11 JUDGE BOTT: You have got a new management company
12 now?

13 THE WITNESS: It is the same individual. The general
14 manager entered into a sublease of a portion of the premises,
15 what we will refer to as the food service aspect.

16 JUDGE BOTT: Forget that.

17 Going back, what was your role? You mentioned who
18 put up the money for this big job, the union?

19 THE WITNESS: Yes. Well, not the union itself, just
20 to make the distinction, it was the Retirement and Pension
21 Fund. They were very sensitive about making this distinction.

22 JUDGE BOTT: I am not drawing any invidious inferences
23 from any answer to my questions about any related problems,
24 and I am sure there are none.

25 Which union is what I'm really getting to.

1 THE WITNESS: It was 138 and their affiliates.

2 JUDGE BOTT: The Operating Engineers?

3 THE WITNESS: The Operating Engineers, yes.

4 JUDGE BOTT: Do you have a background in the Operating
5 Engineers?

6 THE WITNESS: No, I do not.

7 JUDGE BOTT: Do you have a background in any labor
8 organization?

9 THE WITNESS: No, I do not.

10 CROSS EXAMINATION

11 Q (By Mr. Fish) I believe, Mr. Conlon, you testified
12 that there were other pay reductions in addition to the
13 maintenance department; is that correct?

14 A Yes, there were.

15 Q Do you know which departments?

16 A I beg your pardon, I shouldn't say whether there were
17 or not. I said there were other reductions in staff and in
18 people.

19 Q But as far as other pay reductions --

20 A If I said it I don't deny it, I'm not specifically
21 aware of other pay reductions.

22 Q You testified that in December of '72 you were not
23 as yet employed by Colonia Hill?

24 A That is correct.

25 Q You were employed by the architect?

1 A Yes.

2 Q Were you the liaison between the architect and the
3 company at that time?

4 A Yes.

5 Q You were involved in the construction, were you not?

6 A Just to a correction, I was liaison between the
7 architect and the owners, the Retirement and Pension Fund
8 of the Operating Engineers.

9 Then, when the operating tenant came into the picture
10 that lease only extended to them.

11 JUDGE BOTT: The union built the complex and then
12 leased it?

13 THE WITNESS: Yes, they did. They negotiated a lease
14 in the course of construction actually.

15 The sequence wasn't exactly as you said it. They
16 actually had a lease prior to the completion of the complex.

17 JUDGE BOTT: Who started the complex?

18 THE WITNESS: The Operating Engineers, Retirement
19 Pension Fund.

20 JUDGE BOTT: I will restrain my curiosity.

21 Q (By Mr. Fish) How did you become involved in the
22 day to day construction at Colonia Hill during that period?
23 What did you do? What was your function?

24 A I don't understand your question.

25 Q What was your function? You said you were the liaison

1 could you be a little more specific.

2 A I was employed by the architect and in the concept
3 days.

4 JUDGE BOTT: The union would have hired the architect,
5 wouldn't they have?

6 THE WITNESS: And they did and I worked for the
7 architect.

8 Q How did you become involved with any of Colonie Hill
9 employees or supervisors?

10 A That involvement came about by my physical presence
11 and because of the type of problems that we were concerned
12 with.

13 I was with the facility when it was just a woods
14 and a game preserve. We operated out of a trailer.

15 As the building became completed I moved my offices
16 into the building itself and made use of various corners
17 of the building as an operating office.

18 Construction which was solely construction when
19 tenant was not involved in being concerned about decor or
20 things like that, but as the tenant became involved then
21 there was a liaison developed in that regard.

22 And so I would have liaison communication with
23 contractors. There were -- I don't think I'm exaggerating
24 if I say there were 70 contractors involved in the job,
25 maybe nine separate engineers. It was rather a large

1 undertaking.

2 As the bill neared completion and the tenant actually
3 occupied a portion of the building, if you can visualize
4 the building, it wasn't completed in all one fell swoop
5 as might be a bank or a supermarket or something.

6 Portions of it were completed.

7 As they were completed they were occupied by the
8 tenant, so that there was this concern over whose
9 responsibility something might be.

10 Was it the maintenance, of Colonic Hill, the tenant
11 or was it the responsibility of the contractor who claimed
12 he had finished his work and the architect through me, was
13 called upon many times to try to make a preliminary
14 directional finding as to what the case might be, and
15 sometimes it got very complex and couldn't be determined
16 readily.

17 In fact, I came to no -- well, first I knew Art
18 Dickerson because he was the building superintendent, one
19 of the building superintendents on the job while it was
20 under construction.

21 Colonic Hill hired him to continue on as buildings
22 and grounds director as being the most eligible personality
23 on the scene.

24 Mr. Dickerson brought all these problems to me. He
25 was the conduit by which all of this flowed in terms of

1 practical problems day to day and I came to know his
2 employees.

3 I came to know Mo, I came to know Jim Staats. I don't
4 think I got to know Mr. Eckert too well, Tony and many
5 many others, but that is the fashion in which I came to
6 know them on a day to day basis.

7 Q What did you specifically do with respect to Dickerson?
8 You discussed the problems of construction with him?

9 A Yes. I can give you a numerable examples, if you wish.

10 This large room that we have been talking about is
11 in fact the size of a football room -- football field, and
12 it is divided into quarters by electric walls and the two
13 end models are further subdivided into three smaller rooms
14 by electric and manual walls.

15 The entire contract for the electrical walls was
16 given to one contractor called Brunswick Doors or Vector.

17 They operated with two or three divisional names.

18 In the early days of operation if a door malfunctioned,
19 which was not extraordinary and this electrical and physical
20 device, a question would arise, should the maintenance
21 department make the repair, was there a guarantee which
22 might be looked to by the tenant over to the contractor
23 or the owner, or was there something brand new which had
24 to be dealt with in that fashion.

25 That happens to be a typical example of the type of

1 problem.

2 In the meantime by the way, of course the door had
3 to be fixed.

4 Q So what would happen?

5 A Couldn't wait some sort of administrative determination,
6 the place had to function.

7 Q So who would fix it there?

8 A That particular instance the company came back and
9 fixed it. Vector was the name of the company in that
10 particular instance.

11 Q Whose decision would it be, who would fix it whether
12 an outside company or Dickerson or what?

13 A It would be a compendium of opinions. I really
14 depended on what was the cause or the fault or the reason,
15 if you wish, and so we would vary from time to time.

16 I don't remember the specific device or portion of
17 device that malfunctioned in that case but opinions would
18 be drawn from Dickerson. I'm sure he looked to his people
19 for that information on the scene so to speak and the
20 architect many time would have to be called in and he, in
21 turn, would call in some of the engineers, the construction
22 engineers, mechanical engineers, electrical engineers, and
23 in some instances he even got to question as to whether
24 there was -- I don't want to call it an error of design
25 but perhaps alternate choice of design of a particular

1 thing might not have been more desirable, and he was
2 required to arbitrate those questions which could bear on
3 whose responsibility and dollar outlay it would have to
4 be credited with this.

5 JUDGE BOTT: It could have been his?

6 THE WITNESS: We had a couple of instances where the
7 engineers themselves found themselves looking in the mirror
8 if you will because that was the question.

9 Q Did you ever become involved with the employees of
10 Colonie Hill directly?

11 A Certainly, I used to speak with them almost daily.

12 Q About what? What would you say to them?

13 A Generally the things that we are talking about
14 because that was the scope of my interest.

15 Q Did you tell them what work to do?

16 A I would tell them what --

17 Q What work to do?

18 A Well, I suppose indirectly or in some instances as
19 a short circuit, yes.

20 MR. FISH: Nothing further.

21 MR. DONELAN: Nothing further.

22 JUDGE BOTT: You are excused. Thank you, Mr. Conlon.
23 The respondent rest. Does General Counsel have any
24 rebuttal?

25 MR. FISH: Yes, I would like to take a few minutes.

1 JUDGE BOTT: Off the record.

2 (Discussion off the record.)

3 JUDGE BOTT: On the record.

4 MR. FISH: I call Mauro Squicciarini.

5 Whereupon,

6 MAURO SQUICCIARINI

7 having been previously sworn, testified further as follows:

8 DIRECT EXAMINATION

9 Q (By Mr. Fish) Mr. Squicciarini, you heard Mr.
10 Cabanas testify?

11 A Yes, sir.

12 Q As to a series of incidents and his evaluation of your
13 working?

14 A Yes.

15 Q Both after and prior to your being informed that Mr.
16 Lockhart became supervisor?

17 A Yes.

18 Q Will you tell us, was there any difference in the
19 way you worked prior and after Mr. Lockhart became
20 supervisor?

21 A There was no difference in prior or after.

22 Q You didn't work any slower or less enthusiastically
23 or less vigorously?

24 A No.

25 Q Mr. Cabanas also testified to two specific instances,

1 the only two he could recall of your change in attitude
2 or change in your working.

3 He testified to that incident at a health club in
4 which you repair faucets and he was caulking floors.
5 Do you recall that incident?

6 A Yes, I do.

7 Q Do you recall about when it was?

8 A Yes, it was around the middle of April. They had to
9 have a completion by the end of that date because they
10 had photographers, models taking pictures of the
11 whirlpool which the incident took place.

12 It was not repairing faucets. It was installing
13 faucets and it was approximately 10 faucets to be
14 installed.

15 Q 10?

16 A 10, that is correct, and it took me approximately one
17 hour to do the job.

18 Q One hour?

19 A That's right. We had to have a completion date,
20 I said. Mr. DeLillo had told Skip Neilson that he wanted
21 it completed before noon. That afternoon it was supposed
22 to have models and photographers taking pictures in
23 various parts of the health club.

24 Q Is that a normal amount of time?

25 A Yes, it would take about an hour. All involved was

1 two nipples, each faucet and tighten them up with a
2 wrench.

3 Q What was Mr. Cabanas doing during the time you
4 worked on faucets?

5 A He was -- true, he was caulking the floors and walls
6 in another room in a sauna bath.

7 Q He was not in the same room?

8 A He was not in the same room.

9 Q Mr. Cabanas also testified to another incident
10 involving the repair of a leak in a motel, I believe,
11 which he testified he asked you or pursuant to some
12 understanding that you had with him concerning who would
13 get tools in certain situations, that you had left to pick
14 up a tool and you just never came back.

15 A That is not true, it is not true. There was no such
16 incident.

17 Q Did you have any kind of understanding with him
18 that whoever formed that thought of tool the other guy
19 would go get it?

20 A Not with me.

21 Q What kind of understanding did you have, if any?
22 What was the general relationship between you and he when
23 you were on the plumbing jobs?

24 A If there was any plumbing I would make all the
25 decisions on how to work on that.

1 Q Why was that?

2 A Because this is the way it was assigned to me by
3 Mr. Dickerson.

4 Q Did you have occasion to talk to the security guards
5 in the course of an ordinary day?

6 A Numerous times. It was oftentimes where a door would
7 be jammed or a lock would be broken and the security
8 guard would stop me and tell me which door it might be,
9 or if there was a leak of any kind they would inform me
10 about such incident.

11 Q And you would have discussed this with them?

12 A Numerous times during the day.

13 Q So it would not be unusual for you to be standing
14 around talking to the security guard?

15 A No.

16 Q You heard quite a lot of testimony about Mr. Neilson's
17 alleged dissatisfaction with your work.

18 Were you ever informed by Mr. Neilson that he was
19 dissatisfied with your work?

20 A No, he had nothing against my work and he told me so
21 on the last day.

22 Q Did he ever tell you that he thought you were slowing
23 down or that you weren't working as hard as you had before
24 because of your not being made supervisor?

25 A No, he never told me.

1 Q How about Mr. Lockhart, did he ever tell you that?

2 A Mr. Lockhart, no, he was satisfied with my work also.

3 Q Did they ever, either of them ever compliment you
4 about your work?

5 A Yes, they did, on two occasions. On the front
6 fountains there was another incident where it had to be
7 completed by the end of the week.

8 Q I'm sorry?

9 A Front fountains on the entrance of the building.

10 Q When was this?

11 A This was in the beginning of May.

12 Q The beginning of May?

13 A Yes, that's right.

14 Q What happened?

15 A The end of April. I believe it had to be completed
16 when Vice President Agnew visited the Colonic Hill Complex
17 and they wanted to have flags flying and all full force
18 fountains working and I had completed this task with the
19 help of Tony Cabanas which was left undone by the
20 contractors, and I was complimented both by Skip Neilson
21 and Bob Lockhart.

22 Q What did they tell you?

23 A Commented, "You saved the company a considerable
24 amount of money" and I did a good job doing it, and
25 another time when there was the main break.

1 Q When was that?

2 A That was I'd say in the middle of May.

3 Q What happened?

4 A Well, Mr. Conlon was involved in that. I --

5 Q What happened, what main broke?

6 A Yes, a water main broke.

7 Q Then what happened?

8 A Again I say it was negotiated with Bob Lockhart, Mr.
9 Conlon and the contractors.

10 Q What did you do?

11 A I negotiated with the contractors and made sure that
12 the valves were shut and put back on. I negotiated with
13 the security officers, telling them there would be no
14 water.

15 I also notified Mr. John Schmidt telling him he
16 should accumulate a certain amount of cooking water,
17 that the main would be cut off the complete day.

18 Q Were you spoke to about your role in the fixing of
19 this water main?

20 A Yes, I was complimented.

21 Q By whom?

22 A Both Skip Neilson and Bob Lockhart.

23 Q What did they tell you?

24 A They told me I did a fine job and they thanked me, and
25 I believe Mr. Conlon also complimented me too.

1 Q Mr. Conlon?

2 A Yes.

3 Q One other thing, Mr. Squicciarini, do you recall
4 ever working on a holiday at Colonie Hill?

5 A Yes, I did on all holidays, and I didn't get no
6 holidays off.

7 Q Did you ever get time and a half on holidays that
8 you worked?

9 A No.

10 Q What holidays did you work?

11 A Fourth of July, Memorial Day, Labor Day, Washington's
12 Birthday, Lincoln's Birthday, Columbus Birthday.

13 Q Did you receive any vacation pay?

14 A No, I didn't.

15 Q How long had you been working for the company when
16 you were terminated?

17 A I was working a little over a year.

18 MR. FISH: No further questions.

19 JUDGE BOTT: You say you worked holidays at straight time?

20 THE WITNESS: Yes, sir.

21 JUDGE BOTT: One little question, I am sure it is
22 in the record but I want to be positive. Mr. Lockhart
23 was promoted to a supervisor's job, right?

24 THE WITNESS: That is correct.

25 JUDGE BOTT: Then what title did he get?

1 THE WITNESS: Maintenance supervisor.

2 JUDGE BOTT: So prior to that time did they have a
3 maintenance supervisor?

4 THE WITNESS: Well, Mr. Dickerson was the buildings,
5 grounds, buildings and grounds. He was the superintendent
6 of that part of it.

7 Now, when I had signed up with Colonie Hill I turned
8 in a resume stating with my background as a maintenance
9 supervisor or a plumbing foreman and I filled out an
10 application and filled it out as such, as a maintenance
11 supervisor, plumbing foreman, and they hired me to this
12 category.

13 JUDGE BOTT: As either or both?

14 THE WITNESS: Either one.

15 JUDGE BOTT: They didn't give you a title as far as
16 you know?

17 THE WITNESS: No. I did work under Arty Dickerson.
18 I was the first member to be assigned with Colonie Hill
19 and I assumed the duties.

20 JUDGE BOTT: When the other man came along you had
21 hoped to get the job that Lockhart got?

22 THE WITNESS: Well, this was pointed to him after our
23 recall back when Art Dickerson had resigned.

24 JUDGE BOTT: But where were you then working or
25 on a layoff?

1 THE WITNESS: Well, I had come back to the
2 facility.

3 JUDGE BOTT: I am saying I think it is in the record.
4 You would have liked to have the job that Lockhart had?

5 THE WITNESS: That was the understanding, I was
6 made a supervisor, or a plumbing foreman. It was the
7 understanding Dickerson wanted a 60-man force for Colonic
8 Hill and that included with the greens keepers and the
9 grounds maintenance men, the golf course maintenance men
10 and he had told me he had hoped to give me five plumbers
11 working under me and he would have a certain one or two
12 electricians, he would have a painter, he would have a
13 full-fledged carpenter and he would have a few maintenance
14 men to do all-around fixing of locks and what-have-you.

15 JUDGE BOTT: It would include all the maintenance men,
16 either grounds or buildings?

17 THE WITNESS: Right.

18 JUDGE BOTT: Is that the job that Lockhart finally got?

19 THE WITNESS: No, Lockhart just got the supervision
20 of the boiler room attendants and the maintenance.
21 There was only two of us at the time.

22 JUDGE BOTT: What do you mean only two?

23 THE WITNESS: Two maintenance men and two boiler room
24 attendants.

25 JUDGE BOTT: I think I got the picture.

1 At that time we are talking about when Lockhart
2 was on duty the only maintenance people on were you --

3 THE WITNESS: That is correct.

4 JUDGE BOTT: And Cabanas?

5 THE WITNESS: That is correct.

6 JUDGE BOTT: In the boiler room?

7 THE WITNESS: And the boiler room.

8 JUDGE BOTT: Licensed people?

9 THE WITNESS: I don't know.

10 JUDGE BOTT: We are talking about the boiler room?

11 THE WITNESS: Yes.

12 JUDGE BOTT: The mechanical department, the other side
13 people we are not talking about.

14 All right.

15 MR. DONELAN: I have no questions.

16 JUDGE BOTT: You are excused, thank you.

17 MR. FISH: That is all.

18 JUDGE BOTT: Do you wish to file a brief?

19 MR. FISH: Yes.

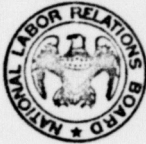
20 JUDGE BOTT: Off the record.

21 (Discussion off the record)

22 JUDGE BOTT: I am fixing the date for the filing of
23 briefs in Washington as January 21, 1974.

24 There being nothing further the hearing is closed.

25 (Whereupon at 3:05 p.m. the hearing was concluded)



NATIONAL LABOR RELATIONS BOARD

REGION 29

16 Court Street

Brooklyn, New York 11241

Telephone 596-3535

June 27, 1973

Colonie Hill, Ltd.
1717 Motor Parkway
Hauppauge, New York

Re: Colonie Hill, Ltd.

Case No.: 29-CA-3457

Gentlemen:

A charge has been filed with this office alleging that you have engaged and are engaging in unfair labor practices within the meaning of the National Labor Relations Act, as amended. A copy of the charge is herewith served upon you.

The investigation of this case has been assigned to
Steven Losh (Telephone No. 596-3799).

We enclose a copy of Form NLRB-4541, pertaining to our investigation and voluntary adjustment procedures.

Attention is called to your right, and the right of any party, to be represented by counsel or other representative in any proceeding before the National Labor Relations Board and the Courts. In the event you choose to have a representative appear on your behalf, please have your representative complete "Notice of Appearance" Form NLRB-4701 and forward it promptly to this office.

You are requested to submit promptly a complete written account of the facts and a statement of your position in respect to the allegations set forth in the charge, together with any documents, records, memoranda, affidavits, etc., which support your position and statement of facts.

EB

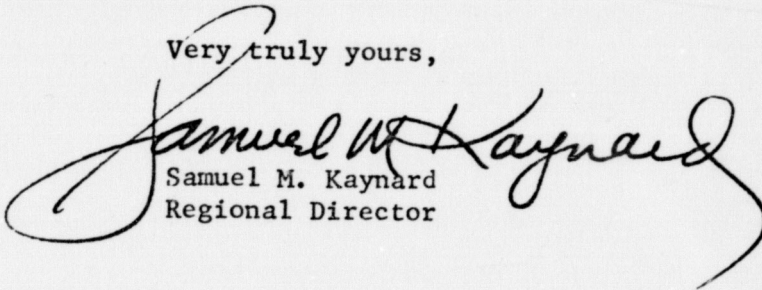
EB (2 PAGES)

In connection with the investigation of this case, it is necessary that the employer execute the enclosed commerce questionnaire. Please forward one completed copy of the questionnaire to this office. You may retain the other copy for your files.

If you would like to discuss this matter before the case is processed further, please telephone the staff member assigned to the case. He will be glad to discuss the matter with you in an effort to dispose of whatever issues may be involved.

Your cooperation with this office is invited so that all facts of the case may be considered.

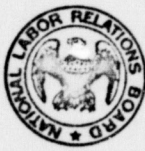
Very truly yours,



Samuel M. Kaynard
Regional Director

Enclosures
Registered Mail
Return Receipt Requested

cc: Mauro Squicciarini
8 Gaynor Avenue
Nesconset, New York 11767



NATIONAL LABOR RELATIONS BOARD

REGION 29

16 Court Street

Brooklyn, New York 11241

Telephone 596-3535

July 3, 1973

Colonie Hill, Ltd.
1717 Motor Parkway
Hauppauge, New York

Re: Colonie Hill, Ltd.

Case No.: 29-CA-3462

Gentlemen:

A charge has been filed with this office alleging that you have engaged and are engaging in unfair labor practices within the meaning of the National Labor Relations Act, as amended. A copy of the charge is herewith served upon you.

The investigation of this case has been assigned to

Steven B. Frush

(Telephone No. 596-3794).

We enclose a copy of Form NLRB-4541, pertaining to our investigation and voluntary adjustment procedures.

Attention is called to your right, and the right of any party, to be represented by counsel or other representative in any proceeding before the National Labor Relations Board and the Courts. In the event you choose to have a representative appear on your behalf, please have your representative complete "Notice of Appearance" Form NLRB-4701 and forward it promptly to this office.

You are requested to submit promptly a complete written account of the facts and a statement of your position in respect to the allegations set forth in the charge, together with any documents, records, memoranda, affidavits, etc., which support your position and statement of facts.

Ed-2/10

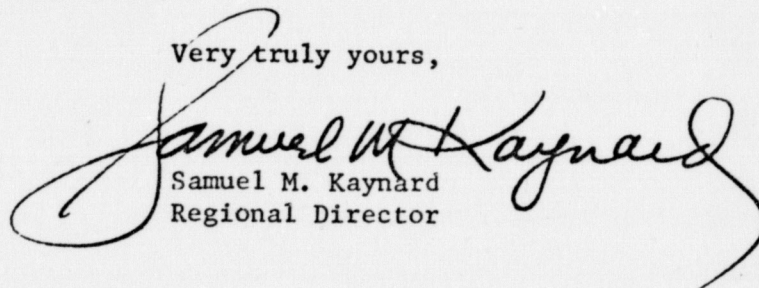
Ed (2 Pages)

In connection with the investigation of this case, it is necessary that the employer execute the enclosed commerce questionnaire. Please forward one completed copy of the questionnaire to this office. You may retain the other copy for your files.

If you would like to discuss this matter before the case is processed further, please telephone the staff member assigned to the case. He will be glad to discuss the matter with you in an effort to dispose of whatever issues may be involved.

Your cooperation with this office is invited so that all facts of the case may be considered.

Very truly yours,



Samuel M. Kaynard
Regional Director

Enclosures
Registered Mail
Return Receipt Requested

cc: James Staats
9 - 43rd Street
Islip, New York

UNITED STATES OF AMERICA
NATIONAL LABOR RELATIONS BOARDForm Approved
Budget Bureau No. 61-1002-11

PETITION

DO NOT WRITE IN THIS SPACE

CASE NO.

DATE FILED

INSTRUCTIONS.—Submit an original and four (4) copies of this Petition to the NLRB Regional Office in the Region in which the employer concerned is located.

If more space is required for any one item, attach additional sheets, numbering item accordingly.

The Petitioner alleges that the following circumstances exist and requests that the National Labor Relations Board proceed under its proper authority pursuant to Section 9 of the National Labor Relations Act.

1. Purpose of this Petition (If box RC, RM, or RD is checked and a charge under Section 8(b)(7) of the Act has been filed involving the Employer named herein, the statement following the description of the type of petition shall not be deemed made.)

(Check one)

- ☒ RC-CERTIFICATION OF REPRESENTATIVES—A substantial number of employees wish to be represented for purposes of collective bargaining by Petitioner and Petitioner desires to be certified as representative of the employees.
- ☐ RM-REPRESENTATION (EMPLOYER PETITION)—One or more individuals or labor organizations have presented a claim to Petitioner to be recognized as the representative of employees of Petitioner.
- ☐ RD-DECERTIFICATION—A substantial number of employees assert that the certified or currently recognized bargaining representative is no longer their representative.
- ☐ UD-WITHDRAWAL OF UNION SHOP AUTHORITY—Thirty percent (30%) or more of employees in a bargaining unit covered by an agreement between their employer and a labor organization desire that such authority be rescinded.
- ☐ UC-UNIT CLARIFICATION—A labor organization is currently recognized by employer, but petitioner seeks clarification of placement of certain employees: (Check one) ☐ In unit not previously certified ☐ In unit previously certified in Case No. _____
- ☐ AC-AMENDMENT OF CERTIFICATION—Petitioner seeks amendment of certification issued in Case No. _____

Attach statement describing the specific amendment sought.

2. NAME OF EMPLOYER

Colonie Hill

EMPLOYER REPRESENTATIVE TO CONTACT

Andrew DeLillo, Pres.

PHONE NO.

3. ADDRESS(ES) OF ESTABLISHMENT(S) INVOLVED (Street and number, city, State, and ZIP Code)

1717 Motor Parkway, Hauppauge, L.I., New York

4a. TYPE OF ESTABLISHMENT (Factory, mine, wholesaler, etc.)

Catering, etc.

4b. IDENTIFY PRINCIPAL PRODUCT OR SERVICE

Restaurant, catering, golf course

5. Unit Involved (In UC petition, describe PRESENT bargaining unit and attach description of proposed clarification.)

Included

All Maintenance Mechanics employed at the Employer's establishment in Hauppauge, L.I., New York

Excluded

All other employees, guards, watchmen, professional employees and Supervisors as defined in the Act

6a. NUMBER OF EMPLOYEES IN UNIT:

PRESENT 6

PROPOSED (BY UC/AC)

6b. IS THIS PETITION SUPPORTED BY 30% OR MORE OF THE EMPLOYEES IN THE UNIT?*

☒ YES ☐ NO

*Not applicable in RM, UC, and AC

(If you have checked box RC in 1 above, check and complete EITHER item 7a or 7b, whichever is applicable)

7a. ☐ Request for recognition as Bargaining Representative was made on and Employer declined recognition on or about
(Month, day, year) (If no reply received, so state)

7b. ☐ Petitioner is currently recognized as Bargaining Representative and desires certification under the act.

8. Recognized or Certified Bargaining Agent (If there is none, so state)

NAME NONE	AFFILIATION
ADDRESS	DATE OF RECOGNITION OR CERTIFICATION

9. DATE OF EXPIRATION OF CURRENT CONTRACT, IF ANY (Show month, day, and year)

10. IF YOU HAVE CHECKED BOX UP IN 1 ABOVE, SHOW HERE THE DATE OF EXECUTION OF AGREEMENT GRANTING UNION SHOP (Month, day, and year)

11a. IS THERE NOW A STRIKE OR PICKETING AT THE EMPLOYER'S ESTABLISHMENT(S) INVOLVED?

YES NO X

11b. IF SO, APPROXIMATELY HOW MANY EMPLOYEES ARE PARTICIPATING?

11c. THE EMPLOYER HAS BEEN PICKETED BY OR ON BEHALF OF

(Insert name)

A LABOR

ORGANIZATION, OF

(Insert address)

SINCE

(Month, day, year)

12. ORGANIZATIONS OR INDIVIDUALS OTHER THAN PETITIONER (AND OTHER THAN THOSE NAMED IN ITEMS 8 AND 11c), WHICH HAVE CLAIMED RECOGNITION AS REPRESENTATIVES AND OTHER ORGANIZATIONS AND INDIVIDUALS KNOWN TO HAVE A REPRESENTATIVE INTEREST IN ANY EMPLOYEES IN THE UNIT DESCRIBED IN ITEM 5 ABOVE. (IF NONE, SO STATE)

NAME	AFFILIATION	ADDRESS	DATE OF CLAIM (Required only if Petition is filed by Employer)
Local 100, Service Employees International Union	AFL-CIO	549 Broadway Massapequa, L.I., N.Y.	

I declare that I have read the above petition and that the statements therein are true to the best of my knowledge and belief.

Plumbers Local Union 775 of the United Association of Journeymen and Apprentices of the Plumbing & Pipefitting Industry of the United States & Canada, AFL-CIO

By Aaron Weissman
(Signature of representative or person filing petition)

Attorney

(Title, if any)

Address 600 Johnson Avenue, Bohemia, New York
(Street and number, city, state, and ZIP Code)

(516) 567-3050

(Telephone number)

WILLFUL FALSE STATEMENT ON THIS PETITION CAN BE PUNISHED BY FINE AND IMPRISONMENT (U.S. CODE, TITLE 18, SECTION 1001)

CPO 8-4-285

Ea

29-R-70

(9/67)



NATIONAL LABOR RELATIONS BOARD

REGION 29

16 Court Street

Brooklyn, New York 11241

Telephone 596-3535

November 30, 1972

Colonie Hill
1717 Motor Parkway
Hauppauge, L.I., New York

Re: Colonie Hill

Case No.: 29-RC-2131

Gentlemen:

A petition under Section 9(c) of the National Labor Relations Act has been filed with this office, a copy of which is enclosed.

The investigation of this case has been assigned to
(Telephone No. 596-).

Attention is called to your right, and the right of any party, to be represented by counsel or other representative in any proceeding before the National Labor Relations Board. In the event you choose to have a representative appear on your behalf, please have your representative complete "Notice of Appearance" Form NLRB-4701 and forward it promptly to this office.

The parties are requested to submit to this office as soon as possible the following information:

- a) Correct name of your organization.
- b) Copies of correspondence and existing or recently-expired collective bargaining contracts, if any, covering any of the employees in the unit alleged in the petition.
- c) Name of any other labor organization claiming to represent any of the employees in the proposed unit.

- d) Your position as to the appropriateness of the unit.
- e) Whether you will agree to an election to be conducted by the Board to determine the question concerning representation.

In addition the Employer is requested to furnish the following:

- f) The enclosed commerce questionnaire filled out in the appropriate sections.
- g) An alphabetized list of employees described in the petition, together with their job classifications for the pay-roll period immediately preceding the date of this petition.

In the event an election is agreed to or directed in this case, the Board requires that a list of names and addresses of all the eligible voters be filed by the Employer with the undersigned, who will in turn make it available to all parties to the case. The list must be furnished to the undersigned within seven (7) days of the direction of or agreement to election. I am advising you now of this requirement so that you will have ample time to prepare for the eventuality that such a list may become necessary. (This list is in addition to the list of employees requested in the proposed unit by job classification in Item (g) above.)

At this point in the handling of this case, we of course do not know what disposition will be made of the petition, but experience tells us that an explanation of rights, responsibilities, and Board procedures can be helpful to your employees.

The Board believes that employees should have readily available information about their rights and the proper conduct of employee representation elections. At the same time employers and unions should be apprised of their responsibilities to refrain from conduct which could impede employees' freedom of choice.

Accordingly, the Employer is requested to post the enclosed Notice to Employees in conspicuous places in areas where employees in the requested unit work. Copies of this Notice are being made available to the labor organization(s) involved.

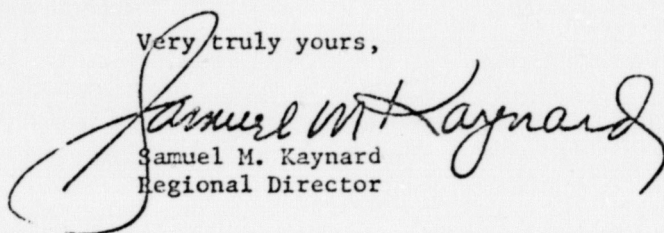
In the event an election is not conducted pursuant to this petition the Employer is requested to remove the posted Notice.

Additional copies of the Notice to Employees are available for posting if the Employer should need them. I would appreciate it if the Employer advise me, on the enclosed Certification of Posting form, the date when the Notice was posted.

If there are any questions about this matter and if we can be of any assistance do not hesitate to call the Board Agent assigned to this case.

Your cooperation with this office is invited so that all facts of the case may be considered.

Very truly yours,



Samuel M. Kaynard
Regional Director

Enclosures

CC: Local 100, S.E.I.U., AFL-CIO
549 Broadway
Manhasset Neck, L.I., New York

Local 775, Plumbers, AFL-CIO
600 Johnson Avenue
Bohemia, New York

Levin & Weissman, Esqs.
122 East 42nd Street
New York, New York 10017

Registered Mail
Return Receipt Requested

29-C-12
(1-65)

GEN. COUN. Ex. # 4.



NATIONAL LABOR RELATIONS BOARD

REGION 29

16 Court Street

Brooklyn, New York 11241

Telephone: 596-3535

December 6, 1972

Plumbers Local Union 775 of the United
Association of Journey, etc., AFL-CIO
600 Johnson Avenue
Bohemia, New York

Re:

Colonia Hill

Case No.:

29-RC-2131

Gentlemen:

This is to inform you that I have approved the withdrawal
of the petition in the above-entitled matter.

Very truly yours,

Samuel M. Kaynard
Samuel M. Kaynard
Regional Director

CC:

Colonia Hill, Ltd.
Proskauer, Rose, Goetz and Mendelsohn, Esqs.
~~PHILADELPHIA~~
Leonard Weissman
Local 100, SEIU
Nelson and Streit, Esqs.

ONLY COPY AVAILABLE

Eg

NATIONAL LABOR RELATIONS BOARD
29th REGION

*200-
Ex 15*

-----X
COLONIE HILL :
Employer : NOTICE OF MOTION
-with- : TO INTERVENE
Local 100 SERVICE EMPLOYEES :
INTERNATIONAL UNION, AFL-CIO : Case No.
Petitioner : 29 RM 353
-----X

To:

HON.

Samuel M. Kaynard, Director
Region 29, National Labor Relations Board

PLEASE TAKE NOTICE that the Petitioner Local 30, INTERNATIONAL UNION OF OPERATING ENGINEERS, AFL-CIO, hereby moves for permission to intervene in the within proceeding and to be placed upon the ballot of the election scheduled for December 14th, 1972, on the grounds that the Petitioner Local 30 represents a majority of employees at COLONIE HILL in a unit appropriate for Collective Bargaining, and that a question of representation affecting commerce exists.

Dated: New York, N.Y.
December 5, 1972

Corcoran and Brady
CORCORAN AND BRADY
Attorneys for Local 30,
International Union of
Operating Engineers, AFL-CIO

To:

Local 100 Service Employees
International Union
549 Broadway
Massapequa, L.I., N.Y.

Colonie Hill
1717 Motor Parkway
Hauppauge, L.I., N.Y.

EA (5 PAGES)

EA-5/1972

NATIONAL LABOR RELATIONS BOARD
29th REGION

-----X
COLONIE HILL :
Employer :
-with- : AFFIDAVIT
LOCAL 100 SERVICE EMPLOYEES :
INTERNATIONAL UNION, AFL-CIO :
Petitioner :
-----X

STATE OF NEW YORK)
COUNTY OF NEW YORK) ss:

JOSEPH LUNGER, being duly sworn, deposes and says;

1. I am Business Representative employed by
LOCAL 30, INTERNATIONAL UNION OF OPERATING ENGINEERS, AFL-CIO,
817 Broadway, New York, N.Y., and am familiar with the facts
in the within matter.

2. LOCAL 30, INTERNATIONAL UNION OF OPERATING
ENGINEERS, AFL-CIO, has been designated by the majority of
the powerhouse and skilled maintenance employees and their
helpers employed at COLONIE HILL, Hauppauge, Long Island, N.

3. The said Unit is a Unit previously found by
this Board to be appropriate for the purposes of Collective
Bargaining.

4. The employees in the said Unit have informed
your Deponent on the 1st day of December 1972 that they
heard a rumor that some proceeding was to take place on
December 12th, under the jurisdiction of Region 29, National
Labor Relations Board, and that this proceeding would
some way affect them in their employment at COLONIE HILL.

On December 1st, 1972, late in the afternoon, Counsel for Local 30 was finally able to ascertain that an election is scheduled for December 14th, 1972 for the Service and Maintenance employees of COLONIE HILL, to determine if those employees wish to be represented by Local 100 of the Service Employees International Union. Counsel was further informed that the powerhouse and skilled maintenance employees would be included in the overall unit of service and maintenance employees

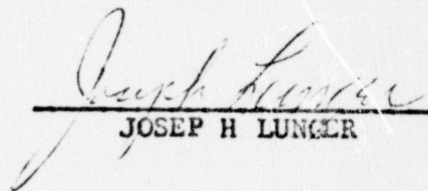
5. The powerhouse and skilled maintenance employees have advised your Deponent that none of them have designated Local 100 as their representative for the purposes of Collective Bargaining, and in fact, none have been advised of the fact that an election was to take place. These employees do not wish to be represented by Local 100 and have, as stated above, designated Local 30 as their representative. At no time were these employees ever approached by Local 100 in order to ascertain their preference of a Collective Bargaining Agent, nor were they asked to designate Local 100 as their Bargaining Representative.

6. Despite the fact that your Deponent has been actively organizing the powerhouse and skilled maintenance employees, neither the employer herein nor Local 100 have given notice to Local 30 that a representation proceeding was under way at the National Labor Relations Board.

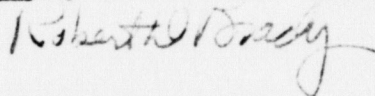
7. This Board is empowered to determine who may participate in a representation election. There exists a

question of representation affecting commerce concerning the powerhouse, skilled maintenance employees and their helpers which question should be determined by the Board by a direction of election which will permit the said employees to choose separate representation in an appropriate unit by a representative of their own choice.'

WHEREFORE Petitioner Local 30, International Union of Operating Engineers, AFL-CIO, requests that the Regional Director issue an Order permitting Local 30 to intervene in the within proceeding and granting permission to appear on the ballot permitting the powerhouse, skilled maintenance employees and their helpers, to exercise their right under the Act for separate representation in a unit consisting of Powerhouse, Skilled Maintenance Employees and their Helpers.


JOSEPH H LUNGER

Sworn to before me this
5th day of December 1972.



ROBERT D. BRADY
Notary Public, State of New York
No. 205110307
Qualified in Westchester County
Commission Expires March 30, 1974

STATE NEW YORK, COUNTY OF NEW YORK

JOHN M. CANN, being duly sworn, deposes and says that on the 5th day of December, 1972 copies of the within a Motion to Intervene were served upon Local 100 Service Employees International Union, 549 Broadway, Massapequa, L.I., New York and upon Colonic Hill, 1717 Motor Parkway, Roseton, L.I., New York, by mail.

John M. Cann
JOHN M. CANN

Sworn to before me this
5th day of December 1972

Robert D. Brady
ROBERT D. BRADY
Notary Public, State of New York
No. 005410397
Qualified in Westchester County
Commission Expires March 30, 1974

UNITED STATES OF AMERICA
NATIONAL LABOR RELATIONS BOARD

GEN. COUN. EX. # 6

file

COLONIE HILL LTD.

Employer-Petitioner

and

LOCAL 100, SERVICE EMPLOYEES INTER-
NATIONAL UNION, AFL-CIO

Union

Case No. 29-EX-353

Date issued DECEMBER 14, 1972

Type of Election:
(Check one)

- ☒ Stipulation
☐ Board Direction
☐ Consent Agreement
☐ RD Direction

(If applicable
check either
or both:)

- ☐ 3(b) (7)
☐ Mail Ballot

TALLY OF BALLOTS

The undersigned agent of the Regional Director certifies that the results of the tabulation of ballots cast in the election held in the above case, and concluded on the date indicated above, were as follows:

1. Approximate number of eligible voters 64
2. Void ballots 0
3. Votes cast for UNION 13
4. ~~Votes cast for~~
5. ~~Votes cast for~~
6. Votes cast against participating labor organization(s) 2
7. Valid votes counted (sum of 3, 4, 5, and 6) 15
8. Challenged ballots 0
9. Valid votes counted plus challenged ballots (sum of 7 and 8) 15
10. Challenges are (not) sufficient to affect the results of the election.
11. A majority of the valid votes counted plus challenged ballots (item 9) has ~~been~~
been cast for:

Local 100 Service Employees International Union
AFL-CIO

For the Regional Director

Steven Fish

The undersigned acted as authorized observers in the counting and tabulating of ballots indicated above. We hereby certify that the counting and tabulating were fairly and accurately done, that the secrecy of the ballots was maintained, and that the results were as indicated above. We also acknowledge service of this tally.

For COLONIE HILL LTD.

[Signature]

For LOCAL 100, SERVICE EMPLOYEES INTER-
NATIONAL UNION, AFL-CIO

Maria C. Colasch

For

For

Service Council of Pp. 4 7
(in ev.)

RC-RM-RD

UNITED STATES OF AMERICA
NATIONAL LABOR RELATIONS BOARD

COLONIE HILL LTD.

Employer-Petitioner

and

LOCAL 100, SERVICE EMPLOYEES INTERNATIONAL
UNION, AFL-CIO

Union

TYPE OF ELECTION

(Check one)

- ☐ Consent Agreement
☒ Stipulation
☐ Board Direction
☐ RD Direction

(Also check box
below where
appropriate)

☐ 3(b)(7)

Case No.

29-RM-353

CERTIFICATION OF REPRESENTATIVE

An election having been conducted in the above matter under the supervision of the Regional Director of the National Labor Relations Board in accordance with the Rules and Regulations of the Board; and it appearing from the Tally of Ballots that a collective bargaining representative has been selected; and no objections having been filed to the Tally of Ballots furnished to the parties, or to the conduct of the election, within the time provided therefor;

Pursuant to authority vested in the undersigned by the National Labor Relations Board,
IT IS HEREBY CERTIFIED that a majority of the valid ballots have been cast for **LOCAL 100,**
SERVICE EMPLOYEES INTERNATIONAL UNION, AFL-CIO

and that, pursuant to Section 9(a) of the National Labor Relations Act, as amended, the said labor organization is the exclusive representative of all the employees in the unit set forth below, found to be appropriate for the purposes of collective bargaining in respect to rates of pay, wages, hours of employment, or other conditions of employment.

UNIT: **INCLUDED:** All full time and regular part-time, service and maintenance employees, including regular extra parking attendants, regular extra checkroom attendants, maids, porters, groundmen, utility men, stationary engineers, maintenance mechanics, leadmen, lifeguards, masseurs, room clerks and athletic and pool attendants employed by the Employer at 1717 Motor Parkway, Hauppauge, L.I. N.Y.

EXCLUDED: All food service employees, office clerical employees, cashiers, department heads, assistant department heads, managers and assistant managers, security employees, guards and supervisors as defined in the Act.

Signed at Brooklyn, New York

On the 26th day of December 19 72

On behalf of

NATIONAL LABOR RELATIONS BOARD

Samuel P. Kaye

Regional Director, Region 29
National Labor Relations Board





Local Union No. 20 130A
AFFILIATED WITH THE AFL-CIO

TO WHOM IT MAY CONCERN:

DATE: Dec. 4, 1972

I hereby designate the INTERNATIONAL UNION OF OPERATING ENGINEERS and its subordinate Local Union No. 34 to represent me for the purpose of collective bargaining and in any and all other situations that may arise under the operation of the National Labor Relations Act and/or with any individual employer where the provisions of the National Labor Relations Act are not involved.

Name MAURO SQUICCIARINI
(Signature in Ink)
Street #8 GAYNOR AVE
City or Town NESCONSET. N.Y.
State N.Y. Zip Code 11767

ER

Settlement Agreement

Local 100 Y.# 9

UNITED STATES OF AMERICA
BEFORE THE NATIONAL LABOR RELATIONS BOARD
REGION 29

LOCAL 164, HOTEL AND RESTAURANT
EMPLOYEES AND BARTENDERS INTERNATIONAL
UNION, AFL-CIO

and

LOCAL 100, SERVICE EMPLOYEES INTERNATIONAL
UNION, AFL-CIO

Case No. 29-CB-1173

COLONIE HILL LTD.

Case No. 29-CB-1230

COLONIE HILL LTD.

and

LOCAL 164, HOTEL AND RESTAURANT
EMPLOYEES AND BARTENDERS INTERNATIONAL
UNION, AFL-CIO

and

LOCAL 100, SERVICE EMPLOYEES INTERNATIONAL
UNION, AFL-CIO

Case No. 29-CA-2829

Party to the Contract

LOCAL 100, SERVICE EMPLOYEES INTERNATIONAL
UNION, AFL-CIO

and

LOCAL 164, HOTEL AND RESTAURANT EMPLOYEES
AND BARTENDERS INTERNATIONAL UNION,
AFL-CIO

Case No. 29-CB-1186

and

COLONIE HILL LTD.

Party to the Contract

SETTLEMENT AGREEMENT

WHEREAS, Local 100 Service Employees International Union,
AFL-CIO, herein called Respondent Local 100 and Colonie Hill Ltd.,
herein called Respondent Colonie, filed charges herein with the
National Labor Relations Board, herein called the Board on March 22, 1972,
in Case No. 29-CB-1173 and on June 5, 1972 in Case No. 29-CB-1230,
respectively alleging that Local 164, Hotel and Restaurant Employees and

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EL-14

Bartenders International Union, herein called Respondent Local 164 has engaged in, and is engaging in, unfair labor practices within the meaning of Section 8(b)(1)(A) and (2) of the National Labor Relations Act, as amended, herein called the Act, receipt and due service of which charges are hereby acknowledged by Respondent Local 164; and

WHEREAS, Respondent Local 164, filed a charge and amended charges herein with the Board, on April 7, 1972 and May 15, 1972, respectively in Case No. 29-CA-2829, alleging that Respondent Colonie has engaged in, and is engaging in, unfair labor practices within the meaning of Section 8(a)(1), (2), (3) and (5) of the Act, receipt and due service of which charges are hereby acknowledged by Respondent Colonie; and

WHEREAS, Respondent Local 164, filed a charge and amended charges with the Board on April 7, 1972 and May 15, 1972 respectively in Case No. 29-CB-1186, alleging that Respondent Local 100, has engaged in, and is engaging in, unfair labor practices within the meaning of Section 8(b)(1)(A) and (2) of the Act, receipt and due service of which charges are hereby acknowledged by Respondent Local 100; and

WHEREAS, upon the aforesaid charges, the General Counsel of the Board, by the Regional Director for Region 29, herein called the Regional Director, issued an Order Consolidating Cases and Complaint herein against Respondents with a Notice of Hearing thereon, dated August 31, 1972, alleging that Respondents engaged in and are engaging in unfair labor practices within the meaning of Section 8(a)(1), (2) and (3) and 8(b)(1)(A) and (2) of the Act, receipt and due service of which Order Consolidating Cases and Complaint and Notice of Hearing are hereby acknowledged by Respondents; and

WHEREAS, the Regional Director declined to issue a Complaint with respect to allegation in the charge in Case No. 29-CB-2829 that Respondent Colonie engaged in unfair labor practices within the meaning of Section 8(a)(5) of the Act; and

WHEREAS, the parties hereto desire to settle and adjust this matter amicably without further proceedings herein:

1. Respondent Colonie, its officers, representatives, agents, successors, and assigns:

A. WILL NOT:

(1) Interrogate applicants for employment concerning their membership in and activities on behalf of, and sympathy in and for Respondent Local 164.

(2) Threaten applicants for employment and employees that they will not be hired, or that they will be discharged, if they became or remain members of Respondent Local 164, or if they refused to become members of Respondent Local 100.

(3) Permit representatives of Respondent Local 100 to enter upon its premises during working hours to solicit employees of Respondent Colonie for membership in Respondent Local 100.

(4) Recognize Respondent Local 100 as the representative of any of its employees for the purposes of dealing with the Respondent concerning grievances, labor disputes, wages, rates of pay, hours of employment, or other conditions of employment, unless and until said labor organization shall have been certified by the Board as the exclusive representative of such employees.

(5) Give any force or effect to the collective bargaining agreement with Respondent Local 100 executed on March 4, 1972, or to any modification, extension, renewal or supplement thereto; provided, however, that nothing in this Settlement Agreement shall require Respondent Colonie to vary or abandon any wage, hour, seniority, or other substantive feature which it has established for its employees in agreement with Respondent Local 100 or to prejudice the assertion by its employees of any rights they may have derived as a result of said agreement.

(6) Refuse to hire applicants for employment because said applicants are members of or join or assist Respondent Local 164 or because said applicants are not members of Respondent Local 100 or do not join or assist Respondent Local 100.

(7) In any other manner, contribute support to Respondent Local 100, or to any other labor organization.

(8) Encourage membership in Respondent Local 100 or discourage membership in Respondent Local 164, by in any manner discriminating in regard to hire or tenure of employment, except to the extent permitted by Section 8(a)(3) of the National Labor Relations Act, as modified by the Labor-Management Reporting and Disclosure Act of 1959.

(9) In any other manner interfere with, restrain or coerce its employees or applicants for employment in the exercise of their right to self-organization, to form labor organizations, to join or assist Respondent Local 164 or any other labor organization, to bargain collectively through representatives of their own choosing, or to engage in other concerted activities for the purpose of collective bargaining or other mutual aid or protection, or to refrain from any and all such activities, except to the extent that such right may be affected by an agreement requiring membership in a labor organization as a condition of employment, as authorized in Section 8(a)(3) of the National Labor Relations Act, as modified by the Labor-Management Reporting and Disclosure Act of 1959.

B. WILL:

(1) Withdraw and withhold all recognition of Respondent Local 100 as the representative of any of its employees for the purpose of dealing with Respondent Colonie with respect to grievances, labor disputes, wages, rates of pay, hours of employment, or other conditions of employment unless and until said labor organization shall have been certified by the National Labor Relations Board as the exclusive representative of such employees.

(2) Place the following named individuals on the hiring list of employees to be called for work as waiters, waitresses or bartenders at Respondent Colonie, with the understanding that all employees of Respondent Colonie who have previously worked for Respondent Colonie as waiters, waitresses or bartenders have priority over these individuals and that these

individuals have priority over any new prospective employees who may be hired by Respondent Colonie as waiters, waitresses or bartenders, and who were not previously employed by Respondent Colonie.

Geraldine Zimmerman
Santina Harrington
Edith Barton
James Mitchell
John Pasamonte
Edward Ryan
Thomas McLain

Maria Figaro
Rozalind Sabarese
Rose Schiller
Leonard Schlessinger
Phillip Yavanovich
Orlando Valdes

(3) Post immediately at its facility 1717 Motor Parkway, Hauppauge, Long Island, New York, copies of the Notice of Employees, attached hereto and marked "Appendix A." Copies of the said Notice to be furnished by the Regional Director for Region 29, shall, after being signed by Respondent Colonie's representative, be posted immediately upon receipt thereof, and maintained for sixty (60) consecutive days thereafter, in conspicuous places, including all places where notices to employees are customarily posted. Reasonable steps shall be taken by Respondent Colonie to insure that said Notice is not altered, defaced or covered by any other material.

(4) Sign and mail sufficient copies of the aforesaid Notice to the Regional Director for Region 29 for posting by Respondent Local 100 in the places where notices to members are customarily posted. Copies of said Notice, to be furnished by the Regional Director for Region 29 shall, after having been signed by Respondent Colonie's representative, be forthwith returned to the Regional Director for such posting by Respondent Local 100.

(5) Post at the same places and under and same conditions as set forth above, copies of the Notices attached hereto and marked "Appendix B" and Appendix C" as soon as they are forwarded by the Regional Director for Region 29.

2. Respondent Local 100, its officers, agents, representatives, successors and assigns:

A. WILL NOT:

(1) Threaten applicants for employment and employees of Respondent Colonie that Respondent Local 100 will cause Respondent Colonie not to hire or to discharge said applicants and employees respectively if they refuse to become members of Respondent Local 100.

(2) Act as the collective bargaining representative of any of the employees of Respondent Colonie, unless and until said labor organization shall have been certified by the National Labor Relations Board as the exclusive representative of such employees.

(3) Give effect to the current collective bargaining agreement with Respondent Colonie executed on March 4, 1972 or any modification, extension, renewal or supplement thereto; provided however that nothing in this Settlement Agreement shall require Respondent Colonie to vary or abandon any wage, hour, seniority, or other substantive feature which it has established for its employees in agreement with Local 100, or to prejudice the assertion by its employees of any rights they may have derived as a result of said agreement.

(4) Cause or attempt to cause Respondent Colonie or any other employer, to discriminate against any employees or applicants for employment in regard to their hire or tenure of employment, or any other terms or condition of employment, in violation of Section 8(a)(3) of the National Labor Relations Act, as amended.

(5) In any other manner restrain or coerce employees or applicants for employment of Respondent Colonie in the exercise of their right to self-organization, to form labor organizations, to join or assist any other labor organizations, to bargain collectively, through representatives of their own choosing, and to engage in other concerted activities for the purpose of collective bargaining or other mutual aid or protection, or to refrain from any and all such activities

except to the extent that such right may be affected by an agreement requiring membership in a labor organization as a condition of employment as authorized in Section 8(a)(3) of the National Labor Relations Act, as modified by the Labor-Management Reporting and Disclosure Act of 1959.

B. WILL:

(1) Post in conspicuous places in Respondent Local 100's business office, meeting halls, and all places where notices to members are customarily posted, a copy of the Notice attached hereto marked "Appendix B." Copies of said Notice, to be furnished by the Regional Director for Region 29, shall, after being duly signed by Respondent Local 100's authorized representative, be posted by Respondent Local 100 immediately upon receipt thereof, and be maintained by it for sixty (60) consecutive days thereafter. Reasonable steps shall be taken by Respondent Local 100 to insure that such notices are not altered, defaced or covered by any other material.

(2) Sign and mail sufficient copies of the aforesaid Notice to the Regional Director for Region 29 for posting by Respondent Colonic in the places where notices to employees are customarily posted. Copies of said Notice, to be furnished by the Regional Director for Region 29, shall, after having been signed by Respondent Local 100's be forth with returned to the Regional Director for such posting be Respondent Colonic.

(3) Post at the same places and under the same conditions as set forth above, copies of the Notices attached hereto and marked "Appendix A" as soon as they are forwarded by the Regional Director for Region 29.

3. Respondent Local 164 its officers, agents, representatives, successors, and assigns:

A. WILL NOT:

(1) Seek to compel Respondent Colonie by filing a request for arbitration or attempting to enforce a request for arbitration previously made by Court proceedings or otherwise or by any other means, to honor and enforce the collective bargaining agreement executed on July 23, 1972, or any extension or renewal thereof, between Respondent Colonie and Respondent Local 164 whereunder inter alia, Respondent Colonie recognized Respondent Local 164 as the collective bargaining representative of all its employees employed in its kitchen, dining room, bar and allied operations and classifications, excluding supervisory employees.

(2) Cause or attempt to cause Respondent Colonie or any other employer, to discriminate against any employees in regard to their hire or tenure of employment, or any other term or condition of employment, in violation of Section 8(a)(3) of the National Labor Relations Act, as amended.

(3) In any other manner restrain or coerce employees of Respondent Colonie in the exercise of their right to self-organization, to form labor organizations, to join or assist labor organizations, to bargain collectively, through representatives of their own choosing, and to engage in other concerted activities for the purpose of collective bargaining or other mutual aid or protection, or to refrain from any and all such activities except to the extent that such right may be affected by an agreement requiring membership in a labor organization as a condition of employment as authorized in Section 8(a)(3) of the National Labor Relations Act, as modified by the Labor-Management Reporting and Disclosure Act of 1959.

3

B. WILL:

(1) Post in conspicuous places in Respondent Local 164's business office, meeting halls and all places where notices to members are customarily posted, a copy of the Notice attached hereto marked "Appendix C." Copies of said Notice, to be furnished by the Regional Director for the Region 29, shall, after being duly signed by Respondent Local 164's authorized representative be posted by Respondent Local 164 immediately upon receipt thereof, and be maintained by it for sixty (60) consecutive days thereafter. Reasonable steps shall be taken by Respondent Local 164 to insure that such notices are not altered, defaced, or covered by any other material.

(2) Sign and mail sufficient ~~copies of the~~ aforesaid Notice to the Regional Director for Region 29 for posting by Respondent Colonie in the places where notices to members are customarily posted. Copies of said Notice, to be furnished by the Regional Director for Region 29 shall, after having been signed by Respondent Local 164's representative, be forthwith returned to the Regional Director for such posting by Respondent Colonie.

4. The Consolidated Complaint and Notice of Hearing heretofore issued herein shall be considered withdrawn upon the approval of this Agreement by the Regional Director.

5. Performance by Respondent with the terms and provisions of this Agreement shall commence immediately after receipt of notice that it has been approved by the Regional Director.

6. The undersigned parties to this Agreement will each notify the Regional Director in writing what steps the Respondents have taken to comply herewith. Such notification shall be made within five (5) days and again after sixty (60) days, from the date of the approval of

this Agreement, or contingent upon compliance with the terms and provisions thereof, no further action shall be taken in the above case.

(7) This agreement contains the entire understanding of the parties hereto, and there is no verbal agreement or understanding between the parties hereto which varies, alters, or adds to it except that it is understood that the signing of this Agreement by Respondent Local 100, Respondent Local 164 or Respondent Colonie shall not be deemed to constitute an admission that any of them have violated the Act:

COLONIE HILL LTD.
1717 Motor Parkway
Hauppauge, L.I., New York

LOCAL 100, SERVICE EMPLOYEES
INTERNATIONAL UNION, AFL-CIO
549 Broadway
Massapequa, New York

By: _____

By: _____

Date: _____

Date: _____

LOCAL 164, HOTEL AND RESTAURANT AND
BARTENDERS, INTERNATIONAL UNION, AFL-CIO
533 Greenwich Avenue
Hempstead, New York

By: _____

Date: _____

APPROVAL RECOMMENDED:

By _____ Date _____
Steven Fish
Attorney
National Labor Relations Board

APPROVED:

By _____ Date _____
Samuel M. Kaynard
Regional Director
National Labor Relations Board
Region 29
16 Court Street
Brooklyn, New York 11241

FORM NLRB-4724
(10-70)

"APPENDIX A"

NOTICE TO



POSTED PURSUANT TO A

APPROVED BY A REG

NATIONAL LABOR RELATIONS BOARD AND

EMPLOYEES

SETTLEMENT AGREEMENT
ONAL DIRECTOR OF THE
AGENCY OF THE UNITED STATES GOVERNMENT



WE WILL NOT interrogate applicants for employment concerning their membership in and activities on behalf of and sympathy in and for Local 164, Hotel and Restaurant Employees and Bartenders International Union, AFL-CIO, herein called Local 164.

WE WILL NOT threaten applicants for employment and our employees that they will not be hired, or that they will be discharged, if they become or remain members of Respondent Local 164, or if they refuse to become members of Local 100, Service Employees International Union, AFL-CIO, herein called Local 100.

WE WILL NOT permit representatives of Local 100 to enter upon our premises during working hours to solicit our employees for membership in Local 100.

WE WILL NOT recognize Local 100 as the representative of any of our employees for the purposes of dealing with our Company concerning grievances, labor disputes, wages, rates of pay, hours of employment, or other conditions of employment, unless and until Local 100 shall have been certified by the National Labor Relations Board as the exclusive representative of such employees.

WE WILL NOT give any force or effect to the collective bargaining agreement with Local 100 executed on March 4, 1972, or to any modification, extension, renewal or supplement thereto; provided, however, that nothing in this Settlement Agreement shall require our Company to vary or abandon any wage, hour, seniority, or other substantive feature which we have established for our employees in agreement with Local 100 or to prejudice the assertion by our employees of any rights they may have derived as a result of said agreement.

WE WILL NOT refuse to hire applicants for employment because said applicants are members of or join or assist Local 164 or because said applicants are not members of Local 100 or do not join or assist Respondent Local 100.

WE WILL NOT in any other manner, contribute support to Local 100, or to any other labor organization.

WE WILL NOT encourage membership in Local 100 or discourage membership in Local 164, by in any manner discriminating in regard to hire to tenure of employment, except to the extent permitted by Section 8(a)(3) of the National Labor Relations Act, as modified by the Labor-Management Reporting and Disclosure Act of 1959.

WE WILL NOT in any other manner interfere with, restrain or coerce our employees or applicants for employment in the exercise of their right to self-organization, to form labor organizations, to join or assist Local 164 or any other labor organization, to bargain collectively through representatives of their own choosing, or to engage in other concerted activities for the purpose of collective bargaining or other mutual aid or protection, or to refrain from any and all such activities, except to the extent that such right may be affected by an agreement requiring membership in a labor organization as a condition of employment, as authorized in Section 8(a)(3) of the National Labor Relations Act, as modified by the Labor-Management Reporting and Disclosure Act of 1959.

THIS IS AN OFFICIAL NOTICE AND

This notice must remain posted for 60 consecutive days from the date of
Any questions concerning this notice or compliance v

WE WILL withdraw and withhold all recognition of Local 100 as the representative of any of our employees for the purpose of dealing with our Company with respect to grievances, labor disputes, wages, rates of pay, hours of employment, or other conditions of employment unless and until Local 100 shall have been certified by the National Labor Relations Board as the exclusive representative of such employees.

WE WILL place the following named individuals on the hiring list of employees to be called for work as waiters, waitresses or bartenders, at our Company with the understanding that all of our employees who have previously worked for our Company as waiters, waitresses or bartenders have priority over these individuals and that these individuals have priority over any new prospective employees who may be hired by our Company as waiters, waitresses or bartenders, and who were not previously employed by our Company.

Geraldine Zimmerman
Santina Harrington
Edith Barton
James Mitchell
John Passamonte
Edward Ryan
Thomas McLain

Maria Figaro
Rosalind Sabarese
Rose Schilier
Leonard Schlessinger
Phillip Yovanovich
Orlando Valdes

COLONIE HILL LTD.
EMPLOYER

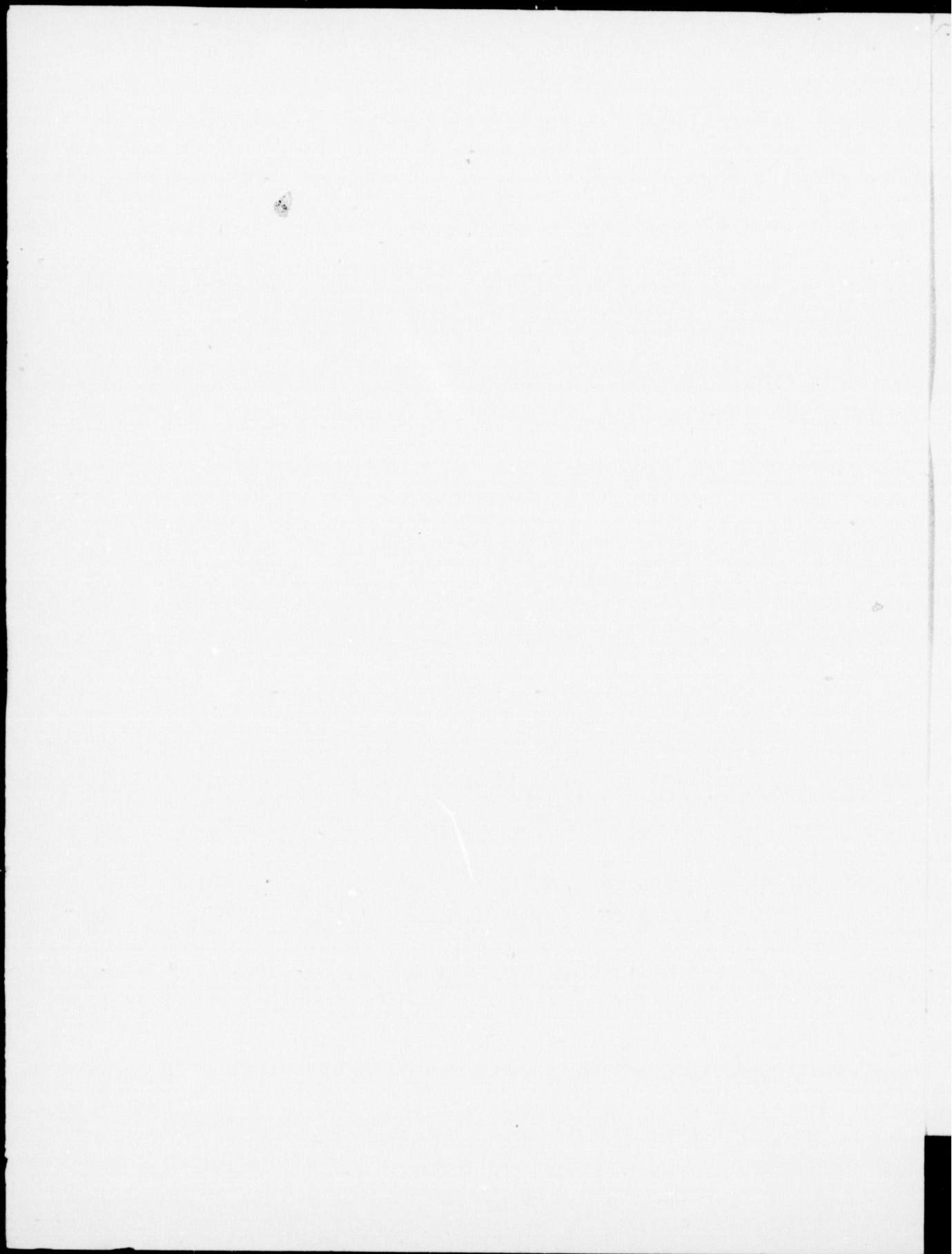
DATE: _____

BY: _____
NAME AND TITLE

MUST NOT BE DEFACED BY ANYONE

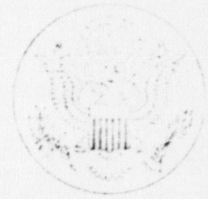
posting and must not be altered, defaced, or covered by any other material.

With its provisions may be directed to the Board's Office, 16 Court Street, Brooklyn, N.Y. 11241
Tel. Nos. 596-3799; 3535.





NOTICE TO MEMBERS



POSTED PURSUANT TO A SETTLEMENT AGREEMENT APPROVED BY A REGIONAL DIRECTOR OF THE NATIONAL LABOR RELATIONS BOARD

AN AGENCY OF THE UNITED STATES GOVERNMENT

WE WILL NOT threaten applicants for employment and employees of Colonie Hill Ltd., herein called Colonie that we will cause Colonie not to hire or to discharge said applicants and employees respectively if they refuse to become members of our Union.

WE WILL NOT act as the collective bargaining representative of any of the employees of Colonie, unless and until we shall have been certified by the National Labor Relations Board as the exclusive representative of such employees.

WE WILL NOT give effect to the current collective bargaining agreement with Colonie executed on March 4, 1972 or any modification, extension, renewal or supplement thereto; provided however that nothing in this Settlement Agreement shall require Colonie to vary or abandon any wage, hour, seniority, or other substantive feature which it has established for its employees in agreement with us, or to prejudice the assertion by its employees of any rights they may have derived as a result of said agreement.

WE WILL NOT cause or attempt to cause Colonie or any other employer, to discriminate against any employees or applicants for employment in regard to their hire or tenure of employment, or any other term or condition of employment, in violation of Section 8(a)(3) of the National Labor Relations Act, as amended.

WE WILL NOT in any other manner restrain or coerce employees or applicants for employment of Colonie in the exercise of their right to self-organization, to form labor organizations, to join or assist other labor organizations, to bargain collectively, through representatives of their own choosing, and to engage in other concerted activities for the purpose of collective bargaining or other mutual aid or protection, or to refrain from any and all such activities except to the extent that such right may be affected by an agreement requiring membership in a labor organization as a condition of employment as authorized in Section 8(a)(3) of the National Labor Relations Act, as modified by the Labor-Management Reporting and Disclosure Act of 1959.

LOCAL 100, SERVICE EMPLOYEES
INTERNATIONAL UNION, AFL-CIO
Union

DATE: _____

BY: _____
Name and Title

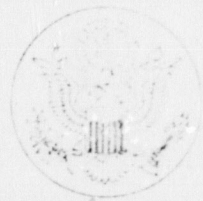
THIS IS AN OFFICIAL NOTICE AND MUST NOT BE DEFACED BY ANYONE

This notice must remain posted for 60 consecutive days from the date of posting and must not be altered, defaced, or covered by any other material. Any questions concerning this notice or compliance with its provisions may be directed to the Board's Office 16 Court Street, Brooklyn, New York 11241 Tel. No. 596-3799; 3535.

APPENDIX C



NOTICE TO MEMBERS



POSTED PURSUANT TO A SETTLEMENT AGREEMENT APPROVED BY A REGIONAL DIRECTOR OF THE NATIONAL LABOR RELATIONS BOARD

AN AGENCY OF THE UNITED STATES GOVERNMENT

WE WILL NOT seek to compel Colonie Hill Ltd., herein called Colonie by filing a request for arbitration or attempting to enforce a request for arbitration previously made by Court proceedings or otherwise or by any other means, to honor and enforce the collective bargaining agreement executed on July 23, 1972, or any extension or renewal thereof, between Colonie and our Union whereunder inter alia, Colonie recognized our Union as the collective bargaining representative of all its employees employed in its kitchen, dining room, bar and allied operations and classifications, excluding supervisory employees.

WE WILL NOT cause or attempt to cause Colonie or any other employer, to discriminate against any employees in regard to their hire or tenure of employment, or any other term or condition of employment, in violation of Section 8(a)(3) of the National Labor Relations Act, as amended.

WE WILL NOT in any other manner restrain or coerce employees of Colonie in the exercise of their right to self-organization, to form labor organizations, to join or assist labor organizations, to bargain collectively, through representatives of their own choosing, and to engage in other concerted activities for the purpose of collective bargaining or other mutual aid or protection, or to refrain from any and all such activities except to the extent that such right may be affected by an agreement requiring membership in a labor organization as a condition of employment as authorized in Section 8(a)(3) of the National Labor Relations Act, as modified by the Labor-Management Reporting and Disclosure Act of 1959.

LOCAL 164, HOTEL AND RESTAURANT
AND BARTENDERS, INTERNATIONAL UNION,
AFL-CIO
Union

DATE: _____

BY: _____
Name and Title

THIS IS AN OFFICIAL NOTICE AND MUST NOT BE DEFACED BY ANYONE

This notice must remain posted for 60 consecutive days from the date of posting and must not be altered, defaced, or covered by any other material. Any questions concerning this notice or compliance with its provisions may be directed to the Board's Office 16 Court Street, Brooklyn, New York 11241 Tel. No. 596-3799;3535.

Genl Coun. G # 10.



Local Union No. 30 30A

AFFILIATED WITH THE AFL-CIO

TO WHOM IT MAY CONCERN:

DATE: 12/4/72

I hereby designate the INTERNATIONAL UNION OF OPERATING ENGINEERS and its subordinate Local Union No. 30 to represent me for the purpose of collective bargaining and in any and all other situations that may arise under the operation of the National Labor Relations Act and/or with any individual employer where the provisions of the National Labor Relations Act are not involved.

Name James P. Strato
(Signature in ink)
Street 11 SELEY CROSS
City or Town ISLIP TERRACE
State NEW YORK Zip Code 11752



Em

Em

AGREEMENT made and entered into this 4th day of March, 1972 by and between COLONIE HILL, LIMITED, 1717 Motor Parkway, Hauppauge, New York (hereinafter termed the "Employer"), and LOCAL 100, SERVICE EMPLOYEES INTERNATIONAL UNION, AFL-CIO, 549 Broadway, Manhasset Neck, New York (hereinafter termed the "Union"). Wherein it is mutually agreed as follows:

I. RECOGNITION

The Employer recognizes the Union as the sole and exclusive bargaining agent during the period of implementation of this Agreement for all full and part-time Waiters, Waitresses, Bartenders, Cooks, Kitchen Help, Dishwashers, Greenskeepers, Porters, Parking Attendants, Check Room Attendants, Clerical Employees, Maintenance Mechanics, Maids, Matrons, Pool and Athletic Attendants, Life Guards, Security Employees, Moving and Set-Up Men, Banquet Porters and Stationery Engineers; excluding all supervisory and confidential employees.

II. UNION SECURITY

A. This Agreement shall apply to all employees of the Employer within the Job Classifications as set forth in "Schedule A" of this Agreement.

B. A Union Shop, requiring Union membership by every employee as a condition of employment after the thirtieth (30) day following his employment, or the effective date of this Agreement, whichever is later shall prevail throughout the term of this Agreement. The Union shall not call upon or require the Employer to discharge or otherwise discriminate against any employee except in compliance with Law and this Agreement.

C. Upon receipt by the Employer of a registered letter from the Union requesting the discharge of any employee on the grounds that he has failed to meet the requirements of Section B.

ONLY COPY AVAILABLE

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of this Article, the matter shall be dealt with as follows:

Unless the Employer questions the propriety of so doing, the employee shall be discharged within fifteen (15) days of said notice if prior thereto he does not take proper steps to meet said requirements. If the Employer questions the propriety of the discharge, he shall immediately submit the matter to the Arbitrator for final determination. If under such procedure it is finally settled or determined that said employee has not met the requirements of Section B of this Article, he shall be discharged within ten (10) days after written notice of such final determination has been given to the Employer, unless the employee shall sooner take proper steps to meet such requirements.

D. The Union agrees to hold the Employer harmless from any liability arising from a discharge of any employee at the request of the Union pursuant to the provisions of this Article.

III. DUES CHECK-OFF

The Employer shall, upon properly executed Dues Deduction Authorization Cards, deduct initiation fees and dues as set forth in the Constitution and By-Laws of the Union, which shall be forwarded to the Employer. This deduction of dues shall only apply to permanent full- and part-time employees. The deduction shall be on the first pay day of the month and forwarded to the Secretary-Treasurer of the Union within ten (10) days of such deduction.

IV. WAGES

The wages shall be as set forth in "Schedule A" of this Agreement which is hereby made part hereof.

V. MANAGEMENT RIGHTS

The Union recognizes the right of Management to direct and control management policies subject to the obligation.

of this Agreement. The Union further recognizes the right of Management to exercise flexibility in the interest of efficient operation and to transfer employees from stations or work areas.

VI. NO STRIKES OR LOCKOUTS

During the term of this Agreement there shall be no stoppage of work, strike, lockout, or picketing. In the event of a violation of this provision by any part to this Agreement, the alleged violation shall be submitted immediately to the Arbitrator, for such action as he deems necessary.

VII. JOB SECURITY

The Union recognizes the right of the Employer to discipline, suspend or discharge employees. However, the Union reserves the right to contest any action and, should the parties fail to agree, the matter shall be settled in accordance with the Grievance Procedure as outlined in this Agreement.

VIII. GRIEVANCE PROCEDURE

Any dispute or grievance between the parties here (the Employer and the Union) which cannot be settled directly by the parties shall be submitted for decision and award to the New York State Board of Mediation which shall supervise the selection of a Panel Arbitrator; provided, however, that in cases arising under Article VI, an arbitrator shall be designated by the Board forthwith. It is understood and agreed that, except for disputes arising under Article VI which shall be heard without delay, no hearing shall be scheduled or take place with the said Panel Arbitrator giving at least two (2) weeks notice to both the Employer and the Union of such hearing.

In the event of a default by either party in appearing before the Arbitrator, after due written notice shall have been given to the said party, the Arbitrator is hereby authorized to render an award upon the testimony of the party appearing.

Due written notice means mailing, telegraphing, or hand delivery to the address specified in this Agreement.

The expense, if any, of such an arbitration shall be borne equally by the parties.

The procedure herein outlined with respect to matters over which the Arbitrator has jurisdiction shall be the sole and exclusive method for the determination of all such issues, and the Arbitrator shall have the power to award appropriate remedies; the award of the Arbitrator being final and binding upon the parties and the employee or employees involved; provided, however, that nothing herein shall be construed to forbid either party from resorting to court for relief from, or to enforce rights under any arbitration award.

In any proceeding to confirm the award of the Arbitrator, service may be made by registered or certified mail within or without the State of New York, as the case may be.

IX. WORK WEEK

A. The Work week for all full time employees shall consist of five (5) days, eight (8) hours per day, forty (40) hours per week, with two (2) consecutive days off.

B. Overtime. Overtime shall be computed on a daily and weekly basis, after eight (8) hours and forty (40) hours respectively; however, there shall be no pyramiding, and a paid sick day shall be construed as time worked.

X. HIRING

A. In the event that new help is required, the Employer shall immediately notify the Union and the Union shall have twenty-four (24) hours (exclusive of intervening Saturdays, Sundays or Holidays) within which to recommend from the open market the help so required.

B. If, within a period of twenty-four (24) hours, the Union fails to recommend satisfactory employees to the Employer, then at the expiration of such twenty-four (24) hours, the Employer shall have the option of seeking its help from the open market.

C. Selection of applicants for referral to jobs by the Union shall be on a non-discriminatory basis and shall not be based on or in any way affected by Union Membership, or subject to the Constitution and By-Laws of Local 100, Service Employees International Union, AFL-CIO. Nothing herein contained shall deny the Union the right to select applicants for referral on the basis of experience in the industry, qualifications and skill or Employer reference. The Union represents and the Employer accepts the fact that the referral program operated by the Union is in conformity with the National Labor Relations Act.

D. The Union recognizes the right of the Employer to reject any applicant.

E. The parties to this Agreement shall keep posted in places where notices to employees and applicants for employment are customarily posted, copies of the above provisions, pertaining to the hiring of new employees.

F. New employees, if and when hired, shall be deemed temporary and on a trial basis for a period of thirty (30) days. Thereafter they shall be considered as regular employees. All such new employees shall be granted the same benefits, however, they shall not be required to become Union members as a condition of continuous employment until, on or after the thirtieth (30th) day subsequent to the beginning of their employment.

XI. UNIFORMS AND OTHER APPAREL

A. Where the Employer requires the employees to wear uniforms, except in the case of waiters, waitresses and bartenders, which shall be supplied with jackets, the Employer shall supply and maintain uniforms.

B. Employees, whose performance of work requires them to perform outside work, shall be furnished adequate apparel and foul weather gear.

XII. MEALS

The Employer shall provide one (1) full meal for all cooks, kitchen help, dish washers, waiters, waitresses, bartenders and food checkers at no cost to the employee.

XIII. SUCCESSOR AND SUB-CONTRACTORS

A. All terms and conditions of this Agreement shall inure to the benefit of, and be binding upon the Union, its successor and assigns, and upon the Employer, its representatives, successors, transferees or assignees.

B. It is further agreed that the Employer shall have the right to contract out any or all of the work covered by this Agreement provided that, the Contractor agrees to assume all the obligations of this Agreement.

XIV. HOLIDAYS

A. All full time employees shall be guaranteed eight (8) Holidays in the calendar year. The parties shall meet and mutually agree upon the holidays of this Agreement and shall conspicuously post these Holidays.

B. Any employee required to work on a Holiday shall receive time and one-half pay in addition to the regular holiday pay. The Employer shall endeavor to give advance notice to its employees as to whether they are required to work on a Holiday. An employee called to work on a Holiday shall be guaranteed at least four (4) hours pay.

XV. VACATIONS

A. All full time employees shall receive vacation with pay, each year, as follows:

After one (1) year of service . . . 1 week
After three (3) years of service . . . 2 weeks

B. Should a holiday fall during an employees vacation the employee shall receive an extra day's vacation.

C. Vacation pay shall be paid prior to the vacation. The choice of vacation periods shall be according to seniority in the department.

D. Any employee leaving his job for any reason shall be entitled to a vacation accrual allowance computed on his length of service as provided in the vacation schedule.

XVI. LEAVES

A. JURY DUTY

All full time employees shall be entitled to two (2) weeks leave with pay when assigned to Jury Duty.

B. MATERNITY LEAVE

Maternity leave shall be granted in accordance with applicable law.

XVII. DISABILITY BENEFITS

A. The Employer agrees to cover the employees under the New York State Disability Benefits Law on a non-contributor basis.

B. The Employer will cooperate with the employees in the processing of their claims, including, but not limited to, posting notices and furnishing forms.

XVIII. GENERAL CLAUSES

A. FIRST AID KIT

The Employer shall maintain readily accessible, a complete first aid kit.

B. BULLETIN BOARD.

The Employer shall furnish a bulletin board exclusively for Union announcements and meeting notices.

C. SANITARY ARRANGEMENTS

Adequate sanitary arrangements shall be maintained by the Employers.

D. TOOLS

All special tools shall be supplied and maintained and replaced by the Employer.

E. MILITARY SERVICE

Both parties agree that all statutes and valid regulations relative to the reinstatement and employment of veterans, shall be observed with the same force and effect as if written into this agreement.

F. NO DISCRIMINATION

There shall be no discrimination against any present or future employee by reason of race, creed, color, national origin, sex or Union Membership.

XIX. HEALTH AND WELFARE

A. The Employer agrees to make payments into a joint welfare trust fund known as Local 100 Welfare Fund, or its successor, for the purpose of covering employees, including such employees of other employers in or connected with the industry for whom contributions are paid, with welfare benefits under such provisions, rules and regulations as may be determined by the Trustees of the Fund.

B. The Employer agrees to make payments to the Fund to provide benefits for all full time employees and such other employees as the employer may contribute for, subject to the consent of the Trustees.

C. This Fund shall provide life insurance, hospitalization, medical-surgical, major medical, dental and optical benefits for the employee and his/her dependents.

D. The Employer shall contribute to the fund six (6%) percent of the gross weekly wage paid to each full time employee covered hereunder, but no less than eight (\$8.00) dollars per week to a maximum of fifteen (\$15.00) dollars per week for each such employee.

E. If the Employer fails to make the required reports or payments to the Fund, the Trustees may in their sole and absolute discretion take any action necessary, including but not limited to arbitration and suits at law, to enforce such reports and payments, together with interest at the rate of six (6%) percent, per annum, and any and all expenses of collection, including, but not limited to counsel fees, arbitration costs and fees, and court costs.

F. Employees included under said Fund shall be covered in accordance with the provisions of the Agreement and Declaration of Trust establishing the Fund.

G. Where during the term of this Agreement, an employee's employment is terminated for any reason, the employee or members of his family entitled to benefits under the Fund shall continue to be effectively covered at the Fund's expense for such periods and for such benefits as may be determined under such provisions, rules and regulations as may be determined by the Trustees.

H. The Employer is required promptly to notify the Fund of terminations and if it fails to do so it shall be liable for any benefits wrongly paid on behalf of a terminated employee as a result of such failure to pay.

XX. WAGES

A. The minimum wages for all full time employees shall be as set forth in "Schedule A" of this Agreement. The wage set forth in this schedule shall cover the period February 26, 1972 to February 28, 1973.

B. The minimum wages for all banquet and extra employees shall be as set forth in "Schedule B" of this Agreement. The wages set forth in this schedule shall cover the period February 26, 1972 to February 28, 1973.

XXI. TERM OF AGREEMENT

This Agreement shall remain in effect from February 26, 1972 for a period of three (3) years, to expire on February 25, 1975. The parties agree to meet on or about December 1, 1972 to negotiate wages effective February 26, 1973.

XXII. MEMORANDUM OF AGREEMENT

The Memorandum of Agreement dated February 26,
is attached and hereby made part hereof.

LOCAL 100, SERVICE EMPLOYEES
INTERNATIONAL UNION, AFL-CIO

COLONIE HILL, LIMITED

[illegible]

Joanna Kertész
Mendham N.J.
Linda K. Kertész
Bridget Kertész
P.O. Box

Helen Kertész

Black & White
South Side

Gene Kertész

Black & White
South Side

Gene Kertész
Black & White

MEMORANDUM OF AGREEMENT

LOCAL 100, SERVICE EMPLOYEES INTERNATIONAL UNION, AFL-CIO, 549 Broadway, Massapequa, New York 11758, having presented duly executed pledge cards by 126 employees, designating Local 100 as their sole and exclusive bargaining agent for wages, hours and working conditions; Local 100, Service Employees International Union, AFL-CIO is hereby recognized as the exclusive bargaining agent for all present and future employees of COLONIE HILL, LIMITED, exclusive of supervisor and confidential employees.

The employer, Colonie Hill, Limited, agrees to meet within five (5) days to negotiate an agreement covering wages, hours and working conditions.

This recognition agreement shall be made part of the formal agreement between the parties.

DATED: February 26, 1972

Richard H. McElroy

LOCAL 100, SERVICE EMPLOYEES
INTERNATIONAL UNION, AFL-CIO

Charles A. Hill

COLONIE HILL, LIMITED

WITNESS:

Bernard P. O'Malley
Alvin Schumacher

WITNESS:

John J. Hill
John J. Hill